IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. No. 34827 of 2023

&

W.M.P. No. 34834 of 2023

M/s. Palace Homes Abishek
Foundation -JV,
rep.by its Partner Mr.R. Sivakumar,
C 506, "Marg Pushpadruma",
106, OMR, Kalavakkam,
Thiruporur,
Tamil Nadu – 603 110. ..Petitioner

Vs.

1. The Chief Commissioner of
   Income Tax-1,
   Income Tax Department,
   Office of the Chief Commissioner
   of Income Tax,
   Aayakar Bhavan,
   Main Building, 3rd Floor,
   No.121, Mahathma Gandhi Salai,
   Chennai – 600 034.

2. The Asst. Commissioner of

Income Tax,
Non Corporate Circle – 19(1),
6th Floor, Room No. 606,
No.121, Mahathma Gandhi
Salai,
Chennai – 600 034. ..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the proceedings of the 1st respondent dated 29.08.2023 bearing No.DIN:ITBA/COM/F/17/2023-24/1055667900(1) and to quash the same as arbitrary and non-consideration of facts recorded in the compounding application with consequential direction to consider the petitioner's application dated 19.07.2022 by providing an opportunity of hearing heard to the petitioner.

For Petitioner	::	Mr.V.Parthiban for Dr.J. Danial
For Respondents	::	Ms.S. Premalatha Junior Standing Counsel for Mr.R.S. Balaji, Senior Standing Counsel

ORDER

The petitioner challenges an order dated 29.08.2023 rejecting the compounding application for financial year 2013-2014 by relying on the

Board's Guidelines for Compounding of Offences, F.No.285/08/2014-IT (Inv.-V)/147 dated 14.06.2019 (Board's Guidelines).

2. Learned counsel for the petitioner submits that this matter is covered by an earlier order of this Court dated 03.11.2023 in W.P. Nos. 2968 & 2970 of 2023 in the case of *Jayshree V. The Central Board of Direct Taxes and 2 Others* .

3. Ms.S. Premalatha, learned Junior Standing Counsel, appears on behalf of the respondents. She concurs that the earlier order of this Court covers the issue.

4. Sub-section (2) of Section 279 of the Income Tax Act, 1961, permits the compounding of an offence under Chapter XXII either before or after institution of proceedings by any of the officers specified therein. By noticing that the said provision does not stipulate any time limit in that regard, this Court interfered with the order issued on the basis of Board's Guidelines referred to above.

5. By following the said judgment, the order impugned herein is quashed. As a corollary, the 1st respondent is directed to consider the compounding application and dispose of the same on merits, after providing a reasonable opportunity to the petitioner.

6. The writ petition is allowed with the above direction. No costs. Connected W.M.P. is closed.

12.02.2024

nv

To

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SENTHILKUMAR RAMAMOORTHY,J.

nv

W.P. No. 34827 of 2023

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