IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **28.02.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**Writ Petition No.34392 of 2023 and**
**W.M.P.No.34296 of 2023**

Ruben Jeyasankari ... Petitioner

-vs-

1.Chief Commissioner of Income Tax-4,
Income Tax Department,
Chennai.

2.The Income Tax Officer,
Non Corporate Ward 15(2),
No.121, Mahatma Gandhi Road,
Nungambakkam,
Chennai-600 034. ... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 1st respondent to consider the petitioner's application for compounding the offence under Section 276CC of the Income Tax Act dated 31.10.2022 and to dispose of the application expeditiously in accordance with law.

For Petitioner : Mr.Suhrith Parthasarathy

For Respondents : Mr.R.S.Balaji, senior standing counsel

**ORDER**

The petitioner had filed an application for compounding an offence under Section 276CC of the Income Tax Act, 1961 (the Income Tax Act) in respect of non filing of returns.

2. Learned counsel for the petitioner invited my attention to the application for compounding which was filed on 31.10.2022 and seeks the expeditious consideration and disposal thereof.

3. Mr.R.S.Balaji, learned senior standing counsel, opposes this request by referring to guidelines issued by the Central Board of Direct Taxes on 16.09.2022 to the effect that penalty proceedings should be concluded before a compounding application is decided. He also relies on the judgment of the Delhi High Court in *Assistant Commissioner of Income-tax v. Nilofar Currimbhoy, [2013] 35 taxmann.com 99 (Delhi)*.

4. Sub-section (2) of Section 279 of the Income Tax Act enables the compounding of any offence under Chapter XXII either before or after the

institution of proceedings by the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General. Since the relevant offence is clearly an offence that falls under Chapter XXII, the statute does not place an embargo on the consideration of the application for compounding.

5. Therefore, without expressing any opinion on the merits of the compounding application, the 1st respondent is directed to consider the compounding application dated 31.10.2022 and dispose of the same expeditiously, preferably within a period of two months from the date of receipt of a copy of this order.

6. The writ petition is disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petition is closed.

**28.02.2024**
(2/2)

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

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**SENTHILKUMAR RAMAMOORTHY,J.**

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To

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Income Tax Department,
Chennai.

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