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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.05.2024

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No. 3567 of 2023

and

C.M.P. No. 29192 of 2023

Thirupathi Kumar Khemka

.. Appellant

Versus

The Chief Commissioner of Income Tax-1
Room No.118, Main Building
No.121, Mahatma Gandhi Road
Nungambakkam
Chennai-600 034.

.. Respondent

Appeal filed under Clause 15 of the Letters Patent, against the order dated 17.11.2023 passed by the learned Judge in W.P.No.21387 of 2022.

For appellant : Mr. Srinath Sridevan, Sr. Advocate
for Ms. Jyotsna Sivakumar

For respondent : Mr. V. Mahalingam,
Sr. Standing Counsel for Income Tax Dept.

JUDGMENT



R. MAHADEVAN, J.

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This appeal has been filed against the order dated 17.11.2023 passed by a learned Judge dismissing W.P. No. 21387 of 2022 filed by the appellant / assessee.

2. The necessary facts leading to the filing of this appeal would run thus:

2.1. The appellant had invested in the shares of M/s. Sai Televisions Limited in the year 1995 for which an Allotment Certificate was issued on 18.10.1995. Since the appellant being a part of the NEPC Group, he had to provide security for the loan availed by one M/s. NEPC Agro Foods Ltd from UTI Bank, and furnished his shares in M/s.Sai Televisions Limited as security. Further, at the request of the bank, the appellant obtained a Consolidated Share Certificate from M/s. Sai Televisions Limited which was issued on 31.01.1997. In the circumstances, the IT Department issued a notice under Section 142(1) of the Income-tax Act, 1961 (“the Act”, in short) dated 01.07.1999 calling upon the appellant to furnish certain details and accordingly, furnished Return of Income, Bank Statements and Tax statements on 12.07.1999 together with a letter, in which, the reason for the delayed filing of the return of income was mentioned. According to the appellant, the Department disregarded the



particulars given by him and passed an Assessment Order dated 27.03.2000 under Section 144 of the Act mainly stating that there is no proof of investment of shares in the year 1995 either in the books of accounts of the appellant or M/s. Sai Televisions Limited and that the source of funds for investment has also not been substantiated.

2.2. Aggrieved by the Assessment Order dated 27.03.2000, the appellant filed an appeal before the Commissioner of Income-tax (Appeals) and the same was dismissed. Further appeal preferred by the appellant before the Income-tax Appellate Tribunal also ended in dismissal. With regard to the penalty order passed by the Assessing Officer, the CIT (A) upheld the same on the ground that the appellant had not sufficiently substantiated that there was no concealment of income.

2.3. In the circumstances, on the basis of the sanction of the CIT, a complaint in EOCC No.184 of 2007 was filed before the Additional Chief Metropolitan Magistrate (Economic Offences-I), Egmore, Chennai, against the appellant under Sections 276C(1) and 277 of the Act and under Sections 420 r/w 511 of the Indian Penal Code. After trial, by order dated 06.03.2019, the appellant was held guilty. Aggrieved by the same, the appellant filed an appeal in CrI. A. No. 92 of 2019 before the appropriate authority. Pending appeal, a Circular was issued by the Central Board of Direct Taxes in CBDT Circular No.25/2019 on 09.09.2019, providing relaxation for filing applications for



compounding of offences as a one-time measure before 31.12.2019. The

relevant portion of the Circular No. 25 of 2019 is as follows:

“4.1 As a one-time measure, the condition that compounding application shall be filed within 12 months, is hereby relaxed, under the following conditions:

(i) Such application shall be filed before the Competent Authority i.e. the Pr. CCIT/CCIT/Pr.DGIT/DGIT concerned, on or before 31.12.2019.

(ii) Relaxation shall not be available in respect of an offence which is generally/normally not compoundable, in view of para 8.1 of the Guidelines dated 14.06.2019.

4.2 Applications filed before the Competent Authority, on or before 31.12.2019 shall be deemed to be in time in terms of Para 7 (ii) of the Guidelines dated 14.06.2019.”

2.4. To avail the benefits conferred under the aforesaid Circular, the appellant filed an application on 20.11.2019 along with the disputed tax. The appellant also gave an undertaking to the effect that he will pay the compounding fee. Since there was no response from the Government, the appellant filed another representation dated 28.12.2021 for considering his earlier representation. Even thereafter, nothing moved, which compelled the appellant to file W.P. No. 16965 of 2022 before this Court for a Mandamus to direct the respondent to consider the Compounding Application dated 20.11.2019. By order dated 04.07.2022, the writ petition was disposed of by directing the respondent to consider and pass orders in the Compounding Application of the appellant. Pursuant to the same, after issuing notice to the appellant for personal hearing and upon hearing the submissions of the appellant, the respondent passed an order dated 30.07.2022 rejecting the



application. Aggrieved by the same, the appellant filed W.P. No. 21387 of 2022, which, by order dated 17.11.2023, was dismissed by holding that the appellant is not eligible for compounding of the offences. Challenging the order of dismissal dated 17.11.2023, the present appeal is filed by the appellant / assessee.

3. The learned senior counsel appearing for the appellant submitted that the learned Judge ought to have seen that there was no occasion for the appellant to apply for compounding earlier. Since the window for seeking compounding was opened only under Circular No.25 of 2019 bearing F.No. 285/08/2014-IT(Inv.V)/350 dated 09.09.2019, which extended the timelines under Para 7 (ii) of Guidelines dated 14.06.2019 bearing F.No.285/08/2014-IT(Inv.V)/147, it is not correct on the part of the learned Judge to find fault with the appellant for not availing the concession for compounding. The learned Judge also erred in not following the judgments reported in (i) **The Chairman, CBDT and Others vs. Umayal Ramanathan** reported in **2009 SCC OnLine Mad 2911** (ii) **R. Inbavalli vs. the Government of India, Ministry of Finance, Department of Revenue and others** in W.P.No.24588 of 2016 dated 18.08.2016 and (iii) **V.A.Haseeb and Company (Firm) vs. The Chief Commissioner of Income Tax TDS** reported in **2016 SCC OnLine Mad 24131**. With regard to these three judgments, the learned Judge had given



a finding that they arose under the 2008 Circular, but the fact is that the 2019 Circular was in pari materia with the 2008 Circular in all material aspects and hence, the above judgments will apply with equal force. The only difference between these Circulars is that 2019 Circular fixes a time limit for applying for compounding, which has been struck down by this Court by order *dated 03.11.2023* passed in *W.P.No.2968 of 2023*, in the case of *Jayshree vs. CBDT*.

3.1. The learned senior counsel further submitted that prior conviction does not debar an application for compounding where the prior conviction is under challenge in a pending appeal or revision. The application for compounding is made pending such appeal or revision and this concept has been clearly envisaged in the above three judgments and hence it is settled legal position that the appellant having suffered a prior conviction is not a bar for filing application for compounding pending appeal. It is his further submission that compounding is governed by Section 279 of the Act which stems from a recognition that the State views offences under this statute as less serious. While so, refusing the benefit of compounding solely on the ground of conviction would render the punitive provisions of the Act unconstitutional and void.

<https://www.mhc.tn.gov.in/judis> 3.2. The learned senior counsel finally submitted that the appellant not



only paid the tax, interest and penalty, but also the compounding fee, compounding charges, litigation cost and Counsel's fee. The appellant has indeed paid more than the tax and the penalty demanded and hence, seeks the benevolent relief of compounding. To buttress his submissions, the learned senior counsel for the appellant placed reliance on the following decisions:

(a) *The Chairman, CBDT vs. Umayal Ramanathan*, reported in MANU/TN/0829/2009, wherein it is held that during pendency of appeal, order of compounding of offences could be passed;

(b) *R. Inbavalli vs. The Government of India, Ministry of Finance*, reported in 2016 SCC OnLine Mad 21722;

(c) *V.A. Haseeb and Co. (Firm) vs. The Chief Commissioner of Income Tax TDS*, reported in MANU/TN/2175/2016. This judgment was passed based on the judgment in the case of Umayal Ramanathan, supra;

(d) *Vikram Singh vs. Union of India and others*, reported in 2017 SCC OnLine Del 7826, wherein it is held that Circulars cannot prescribe a limitation for filing a compounding application;

(e) W.P. No. 35826 of 2016 dated 11.11.2020 in the case of V.K. Lohia vs. Chief Commissioner of Income Tax, wherein, in respect of the issue as to whether the non-cooperation of the party at the initial stage of the proceedings would dis-entitle him for relief in terms of guidelines 3 read with



4.4 (g) of the Circular in F. No. 285/90/2008-IT(Inv.)/12 dated 16.05.2008

issued by CBDT, it was held that it would have to be examined with reference to the well known canons of the principles of natural justice that no material could be relied against a person without affording him an opportunity to explain his position before taking any decision;

(f) W.A. No. 1767 of 2022 dated 11.12.2023, in the case of The Principal Commissioner of Income Tax and others vs. K.M.Mammen, wherein taking note of the legislative intent of Section 279, the order rejecting the compounding application was set aside;

(g) W.A. No. 1750 of 2022 dated 28.09.2022 in the case of *CRN Investments Pvt Ltd vs. The Chief Commissioner of Income Tax*, wherein, this Court, after considering a plethora of judgments and the revised guidelines, permitted the compounding application;

(h) *Footcandles Film Pvt.Ltd. vs. ITO*, reported in 2022 SCC OnLine Bom 11768, wherein it was held that the guidelines contained in the CBDT Guidelines dated 14th June 2019 could not curtail the power vested in Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General under the provisions of Section 279(2) of the Income Tax Act;

(i) W.P. Nos. 2968 and 2970 of 2023 dated 03.11.2023 in the case of



Jayshree vs. CBDT and others, wherein, it was held that in the citations provided by the learned counsel for the petitioner therein, the respective High Courts had struck down the provisions of Clause 7(ii) of the Circular dated 14.06.2019 with respect to the prescribed time limit of 12 months; and further held that at any point of time, the application for compounding of offences can be filed, ie., even after the filing of the prosecution and before the disposal of the case; and

(j) W.A. No.1767 of 2022 dated 11.12.2023, in the case of The Principal Commissioner of Income Tax & others vs. K.M. Mammen.

4. On the other hand, the learned senior standing counsel appearing for the respondent Department submitted that the appellant could not prove with evidence the respondent's finding that the appellant made an unaccounted investment of Rs.10,00,000/- in the shares of M/s.Sai Televisions Limited in the accounting year relevant to the Assessment Year 1997-98. But, the Department had proved conclusively before the Magistrate Court that the appellant had concealed this investment and the Court also held the appellant guilty of the offence and hence awarded punishment and fine under the Act. When the levy of penalty under Section 271(1)(c) gets confirmed, initiation of prosecution proceedings under Sections 276C(1) and 277 becomes mandatory.

The claim of the appellant that Circular No.25 of 2019 dated 09.09.2019 had



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intended to extend the benefit of compounding to all persons who had applied on or before 31.12.2019, is incorrect since the appellant is attempting to feign ignorance over Para 8(1)(iii) of the Guidelines dated 14.06.2019 and Para 4.1(ii) of Circular dated 09.09.2019 which categorically holds that such relaxation shall not be available in respect of an offence committed by the person who is already convicted by a Court of Law under the Direct Tax Law. The Guidelines and Circular prohibit the appellant from seeking relief by compounding the offences as the Regional Committee for Compounding of Offences is not authorised for granting such immunity when the appellant stands convicted at the time of application. The process of deliberating on a compounding application is time consuming and reports from subordinate authorities are required to conclude the entitlements and fulfilment of conditions.

4.1. The learned senior standing counsel further submitted that the appellant is not entitled to the benefits of Circular No.25 dated 25.11.2019 in view of Para 4.1(ii) of the said Circular. The appellant is not entitled to compounding of offences in view of the conduct of the assessee in responding to the requisitions made by the Department for filing the return of income and calling for the details, but for the findings in the assessment proceedings, the unexplained investment of Rs.10,00,000/- would have gone unnoticed and



would have caused loss to the exchequer as the assessee did not file any return of income voluntarily offering the above said income. Thus, there was deliberate concealment of actual income by the assessee to evade taxes. The Trial Court has correctly convicted the assessee in respect of all the offences for which prosecution proceedings were initiated by the Department. The respondent has dealt with issues in the order dated 29.07.2022 and has given elaborate reasons as to why the compounding application was not accepted.

4.2. It is also submitted that compounding application under Section 279(2) of the Act can be filed either before or after the institution of proceedings. The financial year in which the offences were committed is 1996-1997 (AY 1997-98) and the assessment proceedings were going on during this period, i.e., 01.07.1999 to 27.03.2000. The appellant could have very well filed the compounding application during this period. Even though the penalty order under the Act was passed on 04.02.2002 and the same was confirmed by the CIT(A) on 10.12.2002, the appellant had not filed the compounding application even after that date. The criminal complaint was filed and the appellant was convicted on 06.03.2019, but even before 06.03.2019, the appellant had not filed the compounding application. Even though the appellant was having ample time, he had not availed the facility of compounding from 01.07.1999 to 06.03.2019, i.e., for almost 20 years. Taking such risk, the appellant cannot



WEB C

now complain that his application for compounding was rejected. Adding further, it is submitted that the Hon'ble Supreme Court has clearly held that Explanation to Section 279 of the Act is the proviso to Section 279(2) of the Act. The decisions cited by the appellant are not applicable to the case of the appellant since the compounding application was rejected purely on merits considering the conduct of the person, nature and magnitude of the offence and also the facts and circumstances of the case. It cannot be said that the said application was rejected only on the sole ground that the appellant was convicted by the Court. The offences committed by the appellant are very serious in nature and hence, the same should not be compounded and if they are compounded, it will make the prosecution proceedings meaningless.

4.3. The learned senior standing counsel for the respondent relied upon the following decisions in support of his contentions:

(a) Judgment of the High Court of Madhya Pradesh in Ramesh Jain vs. Union of India, reported in (2023) 146 taxmann.com 320 (Madhya Pradesh);

(b) Judgment of the High Court of Delhi in the case of Viraj Exports (P) Ltd. vs. Chief Commissioner of Income (TDS), reported in (2022) 142 taxmann.com 285 (Delhi);

(c) Judgment of the High Court of Punjab and Haryana in Punjab Rice Mills vs. Central Board of Direct Taxes, reported in (2011) 12 taxmann.com



225 (Punj. & Har.);

WEB COPY (d) Judgment of the High Court of Gujarat in Shree Sonal Gum Industries

vs. Income-tax Officer, reported in (2000) 112 Taxman 509 (Gujarat); and

(e) Judgment of the High Court of Delhi in Sangeetha Exports (P) Ltd.

vs. Union of India, reported in (2008) 173 Taxman 21 (Delhi).

5. Heard the learned counsel for the appellant and the learned counsel for the Department and also perused the records carefully and meticulously.

6. It was submitted by the learned counsel for the assessee before the learned Judge that the order denying the benefit of compounding of offences under Section 279(2) of the Act solely on the ground of prior conviction of the appellant, cannot be countenanced in the light of the following decisions:

(i) The Chairman, Central Board of Direct Taxes and others Vs. Umayal Ramanathan, MANU/TN/0829/2009, order dated 06.04.2009 in W.A.No.439 of 2023;

(ii) R.Inbavalli Vs. The Government of India, Ministry of Finance, Department of Revenue and others, MANU/TN/1966/2016, order dated 18.08.2016 in W.P.No.24588 of 2016;

(iii) V.A.Haseeb and Company (Firm) Vs. The Chief Commissioner of



Income Tax TDS, MANU/TN/2175/2016, order dated 02.09.2016 in W.P.No.32731 of 2015; and

(iv)V.K.Lohia Vs. Chief Commissioner of Income Tax, order dated 11.11.2020 in W.P.No.35826 of 2016.

7. The learned Judge perused the judgments of this Court in *Umayal Ramanathan's case* and *Inbavalli's case* and held that the Court in both these cases had not taken note of the aforementioned Circular issued under Section 119 of the Act, 1961, specifically in the context of compounding of offences. The learned Judge further held that the Circular of the Board also makes it clear that there is no scope for compounding of the offences, if there was a conviction of the person by a Court of law under Direct Tax Laws and that the application filed by the appellant was belated. Finally merely because the appellant has paid the tax, compounding of the offences, payment of penalty and interest would not mean that the appellant is in turn entitled for compounding of the offence and that by paying the tax, penalty and interest, the appellant has done no favour for the revenue. Accordingly, the learned Judge dismissed the writ petition.

8. The issue now to be decided in this appeal is as to whether the contention of the appellant that the authorities ought not to have rejected his compounding application, which contention was also negated by the learned



Judge, is correct or not.

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9. To put it in a nutshell, the application of the assessee for compounding of offences is not considered favourably by the RCC for the following reasons:

"1. In this case the compounding application was filed on 20.11.2019 i.e. after 12 years from the filing of the prosecution complaint in violation of eligibility criteria as per para 7(ii) of the compounding guidelines dated 14.06.2019 which provides that no application of compounding can be filed after the end of 12 months from the end of the month in which the complaint is filed. The relaxation of time for filing of compounding petition as provided in Para 4.1(ii) of the Circular No.25 of 2019 dated 09.09.2019 of the CBDT is also not applicable in the case of assessee since such relaxation shall not be available in respect of an offence which is generally / normally not compoundable, in view of para 8.1 of the guidelines dated 14.06.2019.

2. The three case laws referred to by the assessee were considered and found to be distinguishable on facts.

There was wilful attempt on the part of the assessee to conceal his income and evade tax and there was no cooperation by the assessee during the assessment proceedings which resulted in assessment being completed ex-parte under section 144 of IT Act."

10. The guidelines dated 14.06.2019 para 8.1 was also taken note of and it reads as follows:-

"8.1 The following offences are generally not to be compounded:

i. Category 'A' offence on more than three occasions. However, in exceptional circumstances compounding requested in more than three occasions can be considered only on the approval of the Committee referred to in para 10 of these Guidelines. The 'occasion' is defined in para 8.2.

ii. Category 'B' offence other than the first offence(s) as defined in para 8.2 for the purpose of these guidelines.

iii. Offences committed by a person for which he was convicted by a court of law under Direct Taxes Laws.

iv. Any offence in respect of which, the compounding application



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has already been rejected, except in the cases where benefit of rectification is available in these guidelines.

v. The cases of a person as main accused where it is proved that he has enabled others in tax evasion such as, through entities used to launder money or generate bogus invoices of sale / purchase without actual business, or by providing accommodation entries in any other manner as prescribed in section 277A of the Act.

vi. Offences committed by a person who, as a result of investigation conducted by any Central or State Agency and as per information available with the Pr.CCIT/CCIT/Pr.DGIT/DGIT concerned, has been found involved, in any manner, in anti - national / terrorist activity.

vii. Offences committed by a person who was convicted by a court of law for an offence under any law, other than the Direct Taxes Laws, for which the prescribed punishment was imprisonment for two years or more, with or without fine and which has a bearing on the offence sought to be compounded.

viii. Offences committed by a person which, as per information available with the Pr.CCIT/CCIT/Pr.DGIT/DGIT concerned, have a bearing on a case under investigation (at any stage including enquiry, filing of FIR / complaint) by Enforcement Directorate, CBI, Lokpal, Lokayukta or any other Central or State Agency.

ix. Offences committed by a person whose application for 'plea-bargaining' under Chapter XXI-A of 'Code of Criminal Procedure' in respect of any offence is pending in a Court or where a Court has recorded that a 'mutually satisfactory disposition of such an application is not worked out' and such offence has bearing on offence sought to be compounded.

x. Any offence which has bearing on an offence relating to undisclosed foreign bank account / assets in any manner.

xi. Any offence which has bearing on any offence under the Black Money (undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

xii. Any offence which has bearing on any offence under the Benami Transactions (Prohibition) Act, 1988.

xiii. Any other offence, which the Pr.CCIT/CCIT/ Pr.DGIT/DGIT concerned considers not fit for compounding in view of factors such as conduct of the person, nature and magnitude of the offence."

11. Thus, the respondent has given a categorical finding that the appellant made an unaccounted investment of Rs.10,00,000/- in the shares of M/s.Sai Televisions Limited in the accounting year relevant to the Assessment



Year 1997-98. The Department has also proved it before the Court and the appellant was also held guilty of the offence and accordingly punishment and fine were imposed on the appellant. The fact remains that the appellant had not filed any return of income voluntarily offering the above said income of Rs.10,00,000/- at the relevant point of time. Thus, there was deliberate concealment of actual income by the assessee to evade taxes and deliberate filing of false return. Therefore, the RCC in the order dated 30.07.2022, rejected the claim of the assessee, observing in Paragraph Nos.16 to 21 as follows:-

"16. On the merits of the case, the assessee had committed not one but multiple grave offences, which is exemplified by the elaborate contents of the conviction order passed by Additional Chief Metropolitan Magistrate, Economic Offences - 1, Egmore, Chennai - 600 008, in EOCC No.184 of 2007 dated 06.03.2019. The assessee did not file the return of income voluntarily before the due dates specified under section 139 the IT Act. There was no response to the notices under section 142 (1) calling for return of income and information with regard to investment made in shares, expenditure incurred on credit cards, etc. The assessment was completed under section 144 of IT Act after carrying out enquiries and obtaining additional particulars from banks on a taxable income of Rs.46,32,210/- raising a demand of Rs.38,45,340/-. It can be seen that the taxable income was arrived at Rs.46,32,210/- by making additions under section 69 of IT Act in respect of unexplained investment in shares and credit card expenditure under section 2(24)(4) of IT Act.

17. As regards the factor of the conduct of the assessee, the facts of the case would show that the assessee has been recalcitrant in the conduct while responding to the requisitions made for filing the returns of income and calling for details. The facts, therefore, do not show good conduct on the part of the assessee and this factor goes against the assessee.

18. But for the findings in the assessment proceedings, the above said unexplained investments would have gone unnoticed and would have caused loss to the exchequer as the assessee did not file any return of income voluntarily offering the above said investments made.



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19. *There was no cooperation from the assessee right from filing of return of income voluntarily till the date of completion of assessment under section 144. These facts indicate that there has been a deliberate attempt by the assessee to conceal his actual income for the AY 1997-98 and evade taxes there on. The fact that the Hon'ble Trial Court vide its order dated 06.03.2019 has convicted the assessee in respect of all the offences for which prosecution proceedings were initiated by the Department i.e. under section 276CC-for non filing of return of income within the specified dated under section 139(1) of the Act; under section 276C(1) for wilful attempt to evade tax; under section 277 for making false statement in verification and for offence under section 276 D for failure to produce accounts and documents and has not exonerated the assessee of any of the above offences, lends credence to the fact that the assessee has deliberately evaded tax and given false statements during the assessment proceedings.*

20. *The RCC is of the view that the assessee's prayer for sympathetic consideration of his petition for compounding of offence, is bereft of any merit as the wilful attempt of the assessee to conceal his income and evade tax, is clearly established. Moreover, the assessee has not adduced any compelling circumstances which were beyond the control of the assessee so as to consider his compounding petition sympathetically. The claim that the assessee paid all the taxes due voluntarily is technically incorrect as the major portion of the tax demand for the AY 1997-98 has been collected through adjustments of earlier year refunds. The assessee has been through out evasive and non-cooperative and expecting leniency at present was, according to the committee, a bygone or departed position and thus cannot be considered."*

12. With regard to compounding of offences, Para 8(1)(iii) of the Guidelines dated 14.06.2019 and Para 4.1(ii) of Circular dated 09.09.2019 categorically states that such relaxation shall not be available in respect of an offence committed by the person who is already convicted by a Court of Law under the Direct Tax Law. With regard to the conduct of the appellant- assessee, it is seen that right from the year 1997 the conduct is not good. At each and every point of time, the appellant was dragging on the issue thus having mentality trying only to evade the taxes and not otherwise. The



respondent also commented about the conduct of the appellant in not extending his co-operation right from filing of return of income voluntarily till the date of completion of assessment under section 144 of the Act.

13. That apart, since the financial year in which the offences were committed is 1996-1997 (AY 1997-98) and the assessment proceedings were going on, the appellant could have very well filed the compounding application during this period. Here it has to be underlined that even though the penalty order under the Act was passed on 04.02.2002 and the same was confirmed by the CIT(A) on 10.12.2002, the appellant had not filed the compounding application even after that date. It is further seen from the records that the appellant had not filed the compounding application even before 06.03.2019, the date on which the appellant was convicted by the Court, when he had ample time. Thus, for almost 20 years, he kept on dragging the issue. Therefore, this Court is of the considered view that it cannot be stated that the application for compounding was rejected on the sole ground that the appellant was convicted by the Court, but for multiple reasons. The default committed by the appellant has to be termed as wilful. The claim of the appellant that Circular No.25 of 2019 dated 09.09.2019 had intended to extend the benefit of compounding to all persons who had applied on or before 31.12.2019 is not correct, in view of the terms of the Guidelines and Circular mentioned aforesaid.



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14. The judgments relied on by the learned senior counsel for the appellant will not come to the rescue of the appellant. In *Umayal Ramanathan's* case and *Inbavalli's* case, the Court had not taken note of the aforementioned Circular issued under Section 119 of the Income Tax Act, 1961, specifically in the context of compounding of offences. The learned Judge has correctly held that the Circular of the Board also makes it clear that there is no scope for compounding of the offences, if there was a conviction of the person by a Court of law under Direct Tax Laws and that the application filed by the appellant was belated. Of course, finally the appellant has paid the tax, penalty and interest, but that would not mean that he is entitled for compounding of the offence. The learned Judge has also correctly held that by paying the tax, penalty and interest, the appellant has done no favour for the revenue. Thus, the rejection of the compounding application of the appellant by the authorities and confirmation of the same by the learned Judge, cannot be interfered with by this court.

15. In view of the above stated circumstances, this writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D, J.] [M.S.Q, J.]
17.05.2024

Neutral Citation : Yes/No
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R. MAHADEVAN, J.



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AND
MOHAMMED SHAFFIQ, J.

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To

The Deputy Commissioner of Police
Flower Bazaar District
Chennai

W.A.No.3567 of 2023

17.05.2024