IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-03-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 17545 of 2024
AND
WMP Nos. 19327 and 19330 of 2024

M/s.Century Apparels Pvt Ltd.,
No.36, Landoms Road, Kilpauk,
Chennai 600 010. Rep. by its Director

Petitioner

Vs

1. The Chief Commissioner of Income Tax-(TDS)
121, M.G.Road, Nungmabakkam,
Chennai-600 034.

2.The Income Tax Officer
TDS Ward I(1) Chennai 600006

Respondent

PRAYER:

This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to quash the Impugned Order passed under Section 279(2) of the Income Tax Act, 1961, dated 28.03.2024 in DIN: F.No: Compounding/CA-24/CCIT-TDS/2023-24 for the Assessment Year 2013-14 in TAN CHEC02700F, and direct the 1st Respondent to accept the compounding application filed on 25.05.2023

For Petitioner: Mr.V.Vikram
For M/s.Subbaraya Aiyar
Padmanabhan And Ramamani

For Respondents: Dr. B. Ramaswamy Senior
Standing Counsel

ORDER

This writ petition has been filed challenging the Impugned Order dated 28.03.2024 passed under Section 279(2) of the Income Tax Act, 1961, in DIN: F.No: Compounding/CA-24/CCIT-TDS/2023-24 for the Assessment Year 2013-14 in TAN CHEC02700F, rejecting the compound application on the ground of limitation and to direct the 1st Respondent to accept the compounding application filed on 25.05.2023

2.The learned counsel for the petitioner would submit that the petitioner filed an application before the 1st respondent on 18.05.2025 in the prescribed format on 18.05.2025 and the same was rejected by the 1st respondent stating that the said application was filed with a delay of 6 years 2 months and 7 days from the date of filing the complaint and the same is not in compliance with the terms of Para 7(ii) and 9.1 of the Board's guidelines for compounding of offences in F.No.285/08/2014-IT (Inv.V)/196 dated 16.09.2022.

3.Further, he would submit that this Court in the case of ***Jayshree Vs. CBDT & Ors in W.P.Nos.2968 and 2970 of 2023 dated 03.11.2023*** held that Clause 7 (ii) of the circular is beyond the scope of the Act and has struck down the said clause. Therefore, the question of limitation will not come into picture. He therefore would submit that the order impugned herein may be set aside based on the aforesaid decision.

4. Per contra, Dr.B.Ramaswamy, learned Senior Standing Counsel appearing for the respondents would submit that since this Court has already struck down the Clause 7 (ii) of the circular issued by the Department, let the criminal proceedings may continue until the disposal of the compounding application and final orders may be passed subject to the outcome of the compounding application.

5. Heard both sides. Perused the records.

6. In the case on hand, the compounding application filed by the petitioner was rejected by the 1st respondent on the ground that the same has not been filed within a period of limitation, which is not in compliance with the

terms of Para 7(ii) and 9.1 of the Board's guidelines for compounding of offences in F.No.285/08/2014-IT (Inv.V)/196 dated 16.09.2022. This Court, in the aforesaid decision cited by the learned counsel for the petitioner has struck down the clause 7 (ii) of the guidelines issued by the Department. Therefore, following the said decision, the impugned order dated 28.03.2024 is liable to be set aside.

7. Accordingly, the order impugned herein is set aside and the matter is remanded back to the respondents to decide the same on merits. However, it is made clear that as far as criminal case is concerned, mere filing of the compounding application is not a bar for the criminal court from proceeding further. Therefore, the criminal proceedings may continue and the final decision may be taken based on the outcome of the compounding application.

8. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

21.04.2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
arr

To

1.The Chief Commissioner of Income
Tax-(TDS)
121, M.G.Road, Nungmabakkam,
Chennai-600 034.

2.The Income Tax Officer
TDS Ward I(1) Chennai 600006

KRISHNAN RAMASAMY J.

arr

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