IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-09-2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

CRL OP No. 25381 of 2025
and Crl.MP.No.17161 of 2025

SPR and RG Constructions Private
Limited,
Represented by its Director
Mr. Hitesh Kumar Prithviraj Kawad,
Old No.28, New No. 53, EVK Sampath
Road, Vepery, Chennai - 07.

Petitioner(s)

Vs

1. The Deputy Commissioner of Income Tax
TDS circle 3(1), Room No. 114,
BSNL Building Tower -1, No.16,
Greams Road, Chennai - 600006.

2.The Commissioner of Income -Tax (TDS),
BSNL Building Tower -1, No.16,
Greams Road, Chennai - 600006.

Respondent(s)

PRAYER

To call for the records relating to EOCC.No.34/2024 on the file of the Additional Chief Metropolitan Magistrate (Economic Offences I), Egmore, Chennai and quash the same with respect to the petitioners .

For Petitioner(s): Mr.N.V.Balaji

For Respondents: Ms.S.Sheela, Senior Standing Counsel asst. by Mr.H.Siddarth, for RR1 & 2

ORDER

The petitioner seeks to quash the proceedings in EOCC.No.34/2024 on the file of the Additional Chief Metropolitan Magistrate (Economic Offences I), Egmore, Chennai, which has been filed by the respondents under Sections 276B r/w 2788 of the Income Tax Act for non filing of the returns in time and delay in payment of TDS.

2. According to the learned counsel for the petitioner, TDS has been fully paid along with interest. Though the delay has been properly explained for the show cause notice, the same has not been properly considered. Due to various genuine reasons, viz., financial hardships and others, TDS has not been deposited in time. However, the same has been paid with necessary interest.

3. It is his further contention that there is no sanction as per law, in view of the lack of document identification number. The Division Bench of this Court vide order dated 10.06.2025 in TCA Nos.80, 81 and 82 of 2005 has held that unless the document contains identification number, the same cannot be used for any purpose. In such view of the matter, the sanction itself is not valid in the eye of law.

4. The learned Senior Standing Counsel for the respondents submitted that PW1 has been examined and cross examination also partly done.

5. In view of the above, at this stage, when substantial evidence were already come on record, this Court cannot quash the proceedings. The contentions that non deposit of TDS within the period is not wilful or deliberate or there is no element of mens rea constitute criminal offence, shall be canvassed before the Trial Court. The petitioner is granted liberty to challenge the same before the Trial Court if the amount has been properly paid with

interest. Accordingly, this petition is dismissed. Consequently, connected miscellaneous petition is closed.

6. The Trial Court shall take note of the fact that before framing of charges at pre-cognizance stage, the accused was not given opportunity to cross examine the witnesses, which is a clear violation of procedure. While disposing of the case, this aspect should not affect the right of the accused. The Trial Court shall dispose of the case expeditiously.

15-09-2025

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

To

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N.SATHISH KUMAR J.

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