IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 28904 of 2025
and
W.M.P. No. 32442 of 2025

M/s. Moulis Advertising Service Private Limited,
Represented by Authorised Representative,
P. Manimegalai ...Petitioner

Versus

1.Income-Tax Officer, TDS Ward-2(3),
Room No.110, 1st Floor, Tower-1,
BSNL Building, No.16, Greams Road,
Thousand Lights, Chennai – 600 006,
Tamil Nadu.

2.Indian Overseas Bank,
No. 32, Dr. Radhakrishnan Salai,
Chennai – 600 004, TN
Represented by its Branch Manager. ...Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus, to call for the records relating to the impugned order dated 10.03.2025 bearing DIN No. CHE/IOT/152/3/12032025/00244, quash the same and direct the 1st and 2nd respondents to permit the petitioner to access and utilise the funds in its bank account.

For Petitioner : Mr. Pranav Gopalakrishnan

For Respondents : Dr. B. Ramaswamy,
Senior Standing Counsel for R1

O R D E R

The Petitioner has challenged the notice dated 10.03.2025 issued under Section 226(3) of the Income Tax Act, 1996 (hereinafter referred to as the 'Act'). By the impugned notice, the Petitioner has been called upon to discharge the tax liability of Rs.9,69,275/-, from the Petitioner for late payment interest and late filing levy, as referred to in Paragraph No.1 of the impugned notice.

2. For the sake of clarity, the text of the impugned notice dated

10.03.2025 issued under Section 226(3) of the Act, is reproduced below:-

"A sum of Rs.9,69,275/- is due from M/s MOULIS ADVERTISING SERVICE PRIVATE LIMITED, TAN: CHEM00428B /PAN: AAACM6186A on account of Late payment Interest and Late filling levy. You are hereby required under section 226(3) of the Income Tax Act, 1961 to pay to me forthwith any amount due from you to or held by your for, or on account of the said M/s. MOULIS ADVERTISING SERVICE PRIVATE LIMITED or any other account or deposit etc., up to the amount of arrears shown above and to pay any money which may subsequently become due from you to the said assessee-in-default, on which you may subsequently hold for or on account of the said assessee-in-default, up to the amount of arrear still remaining unpaid forthwith on the money becoming due or being held by you as aforesaid as such payment is required to meet the amount due by the tax – payer in respect of arrears of Late payment Interest and Late filling levy. I am to say that any payments made by you in compliance with the notice is in law deemed to have been made under the authority of the tax – payer and my receipt will constitute a good and sufficient discharge of your liability to the person to the extent of the amount referred to in the receipt.

2. I am to observe that if you discharge any liability to the tax – payer after receipt of this notice, you will be personally liable to me as Income Tax Officer. TDS Ward-2(3), Chennai to the extent of the liability discharged, or to the extent of the liability of the tax payer for Late payment interest and Late filling levy-referred to in the preceding para, whichever is less.

3. Further if you fail to make the payment in pursuance *of this notice to me Income Tax Officer, TDS Ward-2(3), Chennai, you shall be deemed to be an assessee-in-default in respect of the amount specified on the notice and further proceedings may be taken against you for the realization of the amount as if it were an arrear of Income tax due from you in the manner provided in section 222 to 225 and the second schedule of the Income Tax Act, 1961 and this notice shall have the same effect as an attachment of a debt by the Tax Recovery Officer in exercise of his powers under section 222 of the Income Tax Act, 1961.*

4. The necessary challans for depositing the money to the credit of Central Government may be obtained from me or cheque may be issued in favour of Income Tax Officer, TDS Ward-2(3), Chennai.

A copy of this notice is being sent to M/s. MOULIS ADVERTISING SERVICE PRIVATE LIMITED (ASSESSEE-deductor)"

3. It is noticed that the Petitioner had been served with a Demand Notice as early as on 07.04.2022, wherein the Petitioner was called upon to discharge the tax liability, i.e., towards late payment of TDS by the Petitioner between 2007-2008 and 2021-2022, for a sum of Rs.14,02,820/-.

4. By a communication dated 05.05.2022, the Petitioner gave an

undertaking to pay part of the amount of Rs.6.25 lakhs and stated that funds for the aforesaid amount is available with the Petitioner to meet the undertaking.

5. The Petitioner, however, requested the Department to provide a consolidated file for the years in which TDS demand was raised, to enable the Petitioner to pay the aforesaid amount based on the year-wise arrears. This was once again reiterated again on 15.07.2022.

6. The Petitioner appears to have partly discharged the liability on 30.06.2022 by remitting an amount of Rs.77,520/-. Thereafter, a series of communications were sent by the Petitioner. However, no further payments were made by the Petitioner, presumably on the ground that the Petitioner was unable to download the Justification Report and consolidation file for the specified period.

7. Learned counsel for the Petitioner would submit that despite the Petitioner calling for the report and the details, the Respondent has not come forward and therefore, the impugned proceedings under Section 226(3) of the Act was unjustified. In this connection, a specific reference was made to the proviso to Section 200A(1) of the Act. It is submitted that the demand proposed for these years is clearly barred, as in terms of the aforesaid proviso, no intimation under Section 200A(1) of the Act can be issued after the expiry of one year from the end of the financial year in which the statement is filed by an assessee.

8. Learned Senior Standing Counsel for the 1st Respondent, on the other hand, would submit that there is no merits in the submissions made by the Petitioner. Specifically, the learned counsel for the Respondents would draw the attention of this Court to the communication sent on 07.04.2022 and the response of the Petitioner thereafter, as well as the penultimate communication dated 05.09.2023, pursuant to which the demand has been

made.

9. I have considered the arguments of the learned counsel for the Petitioner and the learned Senior Standing Counsel for the 1st Respondent.

10. The tax deducted at source is required to be paid and credited to the Government. This is the mandate under Section 199 of the Act. As per Section 199(1) of the Act, any deduction made in accordance with the provisions of the Chapter and paid to the Central Government, shall be treated as payment of tax on behalf of the person from whose income the deduction was made, or of the owner of the security, the depositor, the owner of the property, or the unit holder or of the share holder, as the case may be.

11. Section 200 of the Act imposes an obligation on the person deducting tax. As per Section 200(1), any person deducting any sum in

accordance with the provisions of Chapter XVII has to pay within the prescribed time, the sum so deducted to the credit of the Central Government. A person failing to credit the amount so deducted is a tax defaulter and therefore, is liable to be proceeded and prosecuted criminally as well.

12. The proviso to Section 200A of the Act, which was relied upon by the Petitioner, will apply only to a situation where an intimation is issued and there is a dispute with respect to such intimation. In the present case, the demand spells from the assessment period starting from 2007-2008. Section 200A and 200A(1) were inserted into the Act with effect from 01.04.2010 vide Finance (2) Act, 2009. That apart, the intimation referred to in the proviso to Section 200A(1) relates only to statement of tax deducted at source and the processing of such statements in the manner prescribed therein.

13. In this case, there is no dispute with regard to such statements filed by the petitioner. The Department has not disputed the statement of tax deductions filed by the Petitioner. Therefore, the Petitioner has been called upon to pay the amount that became due, as the same was deducted by the Petitioner while making payments on behalf of the Petitioner's customers / clients. Consequently, there is no merit in the challenge to the impugned notice. Therefore, the writ petition is liable to be dismissed.

14. However, considering the fact that the Petitioner had already undertaken to deposit as sum of Rs.6.5 lakhs, vide communication dated 05.05.2022, I direct that the Petitioner be given liberty to pay the said amount and substantiate his case by filing a suitable reply.

15. In case the Petitioner deposits the aforesaid amount as undertaken vide communication dated 05.05.2022 and also files a reply together with necessary documents to substantiate that no further amount is due or that a

lesser amount is due, the 1st Respondent shall pass appropriate orders after affording an opportunity of hearing to the Petitioner.

16. Subject to the Petitioner depositing the aforesaid amount, the attachment of the bank account shall stand lifted.

17. In view thereof, this Writ Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

14.10.2025

Index : Yes/No
Neutral Citation :Yes/No
AT

To

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C.SARAVANAN, J.

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