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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 4030/2019 & CM APPL. 18206/2019 (Interim Relief)

MAHAJAN OVERSEAS PVT. LTD. & ANR. .....Petitioners

Through: Mr. Ramesh Singh, Sr. Adv. with Ms. Anne Mathew, Adv.

versus

CHIEF COMMISSIONER OF INCOME TAX (TDS) & ANR. .....Respondents

Through: Mr. Sanjeev Menon, JSC.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

<u>O R D E R</u>

% **18.02.2025**

1. We had, by a detailed order of 29 August 2023, taken note of the salient facts and the nature of default which was committed in complying with the intimation for compounding. We thus deem it apposite to extract that order hereinbelow:

> "1. This writ petition seeks to assail an order dated 14.05.2018, whereby the Chief Commissioner of Income Tax (TDS) [in short, "CCIT (TDS)"] held that the case at hand was not fit for compounding.
>
> 2. Besides this, a challenge is also laid to the order dated 22.03.2019, which resulted in the rejection of the petitioner's application under Section 154 of the Income Tax Act, 1961 [in short, "the Act"].
>
> 3. The two applications that were filed for rectification, according to the aforementioned orders, are dated 05.10.2018 and 09.10.2018.

4. The petitioner contends that compounding had been accepted *via* an order dated 05.10.2017.

4.1 The petitioner also claims that this order was received by the petitioner only on 06.11.2017.

5. The compounding charges that the petitioner was called upon to pay was Rs.54,24,683/-.

5.1 It is not in dispute, and something which is apparent upon a perusal of the affidavit dated 28.11.2022 filed on behalf of the petitioner, that Rs.54,24,683/- was paid in four tranches, the details of which are given hereafter:

SI. No.	**Date of actual payment**	**Amount (in Rupees)**
1.	29.01.2018	14,25,556/-
2.	08.02.2018	6,11,294/-
3.	03.04.2018	19,15,961/-
4.	01.05.2018	14,71,872/-
TOTAL		**54,24,683/-**

6. Therefore, according to us, clearly, steps towards payment of compounding charges were taken by the petitioner, after sixty (60) days had expired post 06.11.2017.

6.1 We are emphasizing this aspect because an argument was advanced on behalf of the petitioner, that since there was a delay in receipt of the said order, the sixty (60) days should commence from 06.11.2017 and not 05.10.2017.

7. We find from the record that the respondents/revenue, on 22.03.2019, had communicated to the petitioner the acceptance of the request made by the petitioner *via* its letter dated 27.09.2018, (which, according to them, was a compounding application), was subject to the payment of Rs.90,41,191/- towards compounding charges.

7.1 This payment was to be made within fifteen (15) days.

7.2 The said communication also took note of the petitioner's application dated 17.10.2018, whereby a request was made to grant an extension of time of three (3) months for the payment of compounding charges.

8. The CCIT (TDS), who was the author of the letter dated 22.03.2019, wrote to the petitioner and indicated the following:

> *"Kindly refer to this office acceptance letter no. 1698 dated 27/09/2018 on the above-mentioned subject wherein you were informed that your application for compounding has been accepted subject to (1) payment of compounding charges of Rs.90,41,191/- within 15 days of receipt of this*

letter. Kindly also refer to your application received on 17.10.2018 vide which you have requested for extension of time for payment of compounding charges by 3 months.

2. I am directed to intimate that the CCIT has extended the time to deposit the compounding charges and additional compounding charges @ 2% per month or part of month after 60 days of the receipt of the acceptance letter dated 27/09/2018 till 29.03.2019. Challans for payment of compounding charges and additional compounding charges by 29.03.2019, should be submitted on 01.04.2019 at 11:00 AM., failing which your compounding application is liable to be rejected."

9. Clearly, a perusal of the aforementioned communication would show that in the acceptance letter, which was issued by the CCIT (TDS) on 27.09.2018, the petitioner's application for compounding was accepted, subject to payment of Rs.90,41,191/- within fifteen (15) days of the receipt of the order.

9.1 Thereafter, pursuant to an application of the petitioner dated 17.10.2018, the CCIT (TDS) had offered to compound the charges. However, this was on the condition that the petitioner would pay additional compounding charges @ 2% per month or part thereof after the expiry of sixty (60) days of CCIT (TDS)'s acceptance letter dated 27.09.2018 until 29.03.2019. Thus, as per the CCIT (TDS), the interest would run till 29.03.2019.

10. Given this position, we would like to know from respondents/revenue, firstly, as to whether they would be interested in compounding the offence, and secondly, if the offences are compounded, what would be the additional burden that would be placed on the petitioner.

10.1 Let an affidavit in that behalf be filed within the next two (2) weeks.

10.2 A copy of the same would be served on the petitioner.

11 Liberty is also given to the petitioner to file a rejoinder to the additional affidavit placed on record by the respondent/revenue.

12. List the matter on 11.03.2024."

2. Pursuant to the directions so issued, the respondents, represented by Mr. Menon, have filed an additional affidavit. From the contents of that affidavit, we find that the petitioner had originally applied for compounding on 10 July 2017. The acceptance and intimation letter is dated 05 October 2017 and which is stated to have

been manually served upon the writ petitioner on 06 November 2017.

3. Since there was an apparent failure on the part of the petitioner to abide by the timelines as stipulated therein, the respondents proceeded to pass an order on 14 May 2018 rejecting the application.

4. From the facts which we had an occasion to notice, we further find that the first payment in terms of the intimation letter was made on 29 January 2018. The petitioner had thereafter made three further deposits in February, April and May of 2018. However, and although the Guidelines for Compounding of Offences under Direct Tax Laws, 2014 in terms of para 11 do contemplate an applicant seeking extension of time for effecting a deposit, the petitioner here moved the respondents for extension only after the initial and originally stipulated period of 60 days had expired.

5. It is perhaps in the aforesaid backdrop that the respondents view the application made on 16 May 2018 as not being one made in extension or continuation of the original application but one liable to be viewed as a fresh application for compounding.

6. Mr. Singh, learned senior counsel appearing for the writ petitioner, on instructions submits that the petitioner may be accorded the liberty to move an appropriate representation bearing in mind the bona fides which it had exhibited in ultimately paying a substantial sum of INR 54,24,683/-. According to Mr. Singh the petitioner would crave liberty to convince the respondents that the second application dated 16 May 2018 should not be viewed as a fresh application but one made with the intent to continue the original application for compounding which had been preferred.

7. In view of the above, we dispose of the writ petition leaving it

open to the writ petitioner to move the respondents by way of a representation. Any such representation, if made, shall be examined and disposed of in accordance with law.

YASHWANT VARMA, J

HARISH VAIDYANATHAN SHANKAR, J

FEBRUARY 18, 2025/kk