16.6.2026
ct no. 10
Sl. 16
AGM

WPA 28492 of 2025

Rahee Infratech Limited
-Versus-
Union of India & Ors.

Mr. Avra Mazumdar.
Ms. Alisha Das.
Ms. Rupomita Ghose.
Ms. Vedika Agarwal.
Ms. Maitreyee Naskar.
Mr. Debdut Banjerjee.
…for the petitioner.

Mr. Tarak Nath Jaiswal.
Mr. Anurag Roy.
… for the Income Tax Authorities.

1. The instant writ petition has been filed challenging inter alia, the legality, validity and the sustainability of the sanction order dated 19.4.20259 passed under Section 279(1) of the Income Tax Act, 1961 for the assessment year 2022-23.

2. The core issue involved herein is whether a prosecution case can be initiated against the assessee for the delay in depositing the collected TDS, despite the issuance of a notice and a reply filed thereto, and whether a sanction order can be passed arbitrarily and mechanically to initiate criminal proceedings before the appropriate Court of law.

3. Learned counsel appearing for the petitioner submits that the show cause notice dated

16.3.2025 for the assessment year 2022-23 has been responded to and replied on 29.4.2025.

4. It is submitted that by way of a letter dated 29.4.2025 the petitioner has categorically explained the reasons for the failure to deposit the entire TDS within the statutory period.

5. As per the mandate of the Section 278 (AA) a delay renging from a minimum of 1 day to a maximum of 446 days is attributable to reasonable cause for non-compliance in depositing the TDS within the statutory period.

6. Learned counsel appearing for the petitioner places reliance upon the judgment of the Hon'ble Apex Court in the case of Asstt. CIT v. At Dev Prabha (2023) 150 taxmann. Com 275/293 Taxman 172/454 ITR 59 wherein it has been held that in cases where the TDS amount, along with interest, has been deposited prior to the initiation of criminal proceedings, the criminal proceedings initiated subsequently are liable to be quashed and set aside.

7. The petitioner submits that the sanction order passed under Section 279 of the said Act, 1961 suffers from legal infirmity, since the same has been passed without considering the reply filed by the petitioner. The same is tantamount to being perverse and is not sustainable in the eye of law and is liable to be quashed.

8. Learned counsel appearing for the Department vehemently opposes the same and submits that a complaint has been lodged and a prosecution cases has been initiated, and 19.9.2026 has been fixed for hearing of the prosecution case before the 16th Metropolitan Magistrate, Kolkata.

9. In conspectus of the facts adumbrated herein, I find that the petitioner has been able to prima facie satisfy this Court that interference is warranted at this stage.

10. Despite the prosecution case has been initiated, the jurisdiction of this Court under Article 226 of the Constitution of India cannot be ousted.

11. The instant case also falls within certain exceptional circumstances on the ground that the reply filed by the petitioner to the show cause notice has not been apparently considered and adjudicated and the concerned authority has passed the sanctioned order in a very perfunctory and slip-shod manner, without proper application of mind to the reply filed by the petitioner and without recording any reasons for rejecting the explanation furnished therein.

12. Since the sanction order does not reflect the proper consideration and adjudication of the reply, the said order dated 19.5.2025 for the assessment year 2022-23 passed under Section 279 of the said Act is hereby quashed and set aside.

13. I direct the respondent no. 2 to revisit the issue by considering the reply dated 29.4.2025 within a period of two weeks from the date of communication of this order and to pass a reasoned order in accordance with law upon affording an opportunity of hearing to the petitioner and communicate such decision within a week thereafter.

14. With the above observation, the writ petition is disposed of along with other consequential proceedings.

15. Since the affidavits have not been called for, the allegations made in the writ petition are deemed not to have been admitted.

16. Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Smita Das De, J.)