HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Before:
THE HON'BLE JUSTICE OM NARAYAN RAI

WPA 28765 of 2025

Amalgam Steel Private Limited & Anr.
versus
The Assistant Commissioner of Income Tax & Ors.

For the Writ Petitioners	:	Mr. Abhrajit Mitra, Sr. Adv. Mr. Saurabh Bagaria Mr. Piyush Agarwal Ms. Shivangi Thard Ms. Shrivalli Kajaria
For the Respondents	:	Mr. Aryak Dutt Ms. Sukanya Dutta Ms. Riya Kundu
Hearing concluded on	:	09.01.2026
Judgment on	:	09.01.2026

Om Narayan Rai, J.:

1. This writ petition mounts challenge to an order dated May 27, 2025 passed under Section 270AA of the Income Tax Act, 1961 thereby rejecting the petitioner no.1's (hereafter "the petitioner") application seeking immunity from penalty under Section 270A of the said Act of 1961.

2. Briefly stated, the facts relevant for the purpose of adjudication of the present writ petition are that the petitioner filed its Return of Income under Section 139 of the said Act of 1961 on October 26, 2023 declaring a total income of rupees 'NIL'. The same was processed under section 143 and intimation under Section 143(1) of the said Act of 1961 was issued on November 29, 2023. The petitioner's case was subjected to scrutiny assessment and an order of assessment under Section 143 (3) of the said Act of 1961 was passed on March 28, 2025 raising a demand of Rs.10,49,79,418/-.

3. The petitioner then filed an application for rectification under Section 154 of the said Act of 1961 thereby seeking rectification of the scrutiny assessment order. While the petitioner's application for rectification was pending, a notice under Section 270A of the said Act of 1961 was issued to the petitioners on March 28, 2025 thereby calling upon the petitioner to show cause as tow why an order imposing penalty shall not be passed against it for "*Under-reporting of income*".

4. Upon receipt of the said notice, the petitioner filed an application under Section 270AA of the said Act of 1961, on April 9, 2025 in the prescribed form (Form 68) seeking immunity from imposition of penalty under Section 270A of the said Act of 1961 for the assessment year 2023-24. In the said application, the petitioner, *inter alia*, highlighted that the petitioner had sought for rectification of the scrutiny assessment order and that the petitioner reasonably believed that upon rectification of the said order, no demand would be subsisting inasmuch as the petitioner did not have taxable income.

5. While the petitioner's said application for immunity was pending, the petitioner's application for rectification was allowed by an order dated May 1, 2025 thereby determining the final tax demand as 'NIL'.

6. Subsequently, on May 27, 2025, the petitioner's application seeking immunity under the Section 270AA of the said Act of 1961 was rejected by the Assessing Officer observing as follows:

> *"In response thereof, the assessee company applied for immunity from penalty u/s 270AA of the Act in Form 68 on 09/04/2025.*
>
> *In this regard, an opportunity was given to the assessee vide notice u/s 270AA dated 08.05.2025 requesting the assessee to submit its reply / explanations or to appear either personally or through a duly authorized representative on 13.05.2025 and present their case alongwith corroborative documentary evidence.*
>
> *However, no compliance was made by the assessee in response to the said notice.*
>
> *The conditions laid down in section 270AA of the Income Tax Act also do not fulfil, as such the prayer for granting immunity is not maintainable.*
>
> *Accordingly, assessee's prayer for grant of immunity from imposition of penalty u/s 270A of the Income Tax Act for the A.Y. 2023-24 is hereby rejected."*

7. Assailing the said order, the petitioner filed an appeal before the Commissioner of Income Tax (Appeals). The said appeal was rejected by an order dated October 3, 2025 holding that the appeal was not maintainable. It is thereafter that the petitioners have approached this Court by filing the instant writ petition.

8. Mr. Mitra, learned senior advocate appearing for the petitioners submits that the order impugned is impeachable on several grounds. It is submitted that the order impugned has been passed without considering the petitioner's application seeking immunity. It is further submitted that no reason has been assigned as to why has the petitioner's request for grant of immunity been declined and as to why has the Assessing Officer held that the petitioner's prayer for immunity is '*not maintainable*'.

9. Mr. Mitra invited the attention of this Court to an order No. 106 of 2025-26 dated May 22, 2025 issued by the Director General of Income Tax (Inv.) and submitted that the incumbent in the seat of Assessing Officer who passed the order impugned on May 27, 2025 had been transferred from the said seat to DDIT (Inv.) Headquarters & Administration, Kolkata by an order dated May 22, 2025 and as such the said person did not have jurisdiction to pass any order on the petitioners' application seeking immunity on May 27, 2025 (i.e. on the date of the order impugned).

10. It is further pointed out that the penalty proceeding which had been initiated against the petitioner by issuance of notice under Section 270A of Income Tax Act, 1961 was dropped by the relevant revenue officer by an order dated September 29, 2025 upon taking into consideration the fact that the scrutiny assessment order that had been passed against the petitioner stood rectified resulting in a "Nil" demand.

11. Mr. Mitra has relied on a judgment of the Hon'ble Delhi High Court in the case of ***Schneider Electric South East Asia (HQ) Pte. Ltd. vs. Asst. Commissioner of Income Tax International Taxation Circle 3(1)(2)***

and Others [1]in support of his contention that rejection of an application seeking immunity should be informed by reasons.

12. Mr. Dutt, learned Senior Standing Counsel appearing for the respondents/ revenue authorities submits that the petitioner's application for immunity is not available either in physical records of the revenue authorities or on the relevant portal of the revenue authorities. It is further submitted that the petitioner's application has been rejected since the Assessing Officer found that the petitioner's case did not fulfil the requirements for grant of immunity under Section 270AA of the said Act of 1961.

13. Heard learned advocates appearing for the respective parties and considered the material on record.

14. It is not in dispute that the scrutiny assessment order passed against the petitioner has been rectified by an order dated May 01, 2025 thereby determining the tax payable/refundable as rupees 'NIL'.

15. Although it has been submitted by Mr. Dutt that the petitioner's application seeking immunity is neither available with the physical records of the respondents/ revenue authorities nor available on the portal, yet, it is evident from the order impugned dated May 27, 2025, (an extract of the relevant portion whereof has already been reproduced hereinabove), that the petitioner had indeed applied for immunity from penalty under Section 270AA of the said Act of 1961 in Form 68 on April 9, 2025. Such application along with the print out of Form 68 forms Annexure 'P-6' to the writ petition (at pages 77 to 79 thereof).

16. In such view of the matter, it cannot be said that no application was filed by the petitioner seeking immunity. In the said application the petitioner

[1] (2022) 1 High Court Cases (Del) 792

has, in support of its contention that it has satisfied the conditions required for grant of immunity in terms of Section 270AA of the said Act of 1961 stated as follows:

> *"3.0 Sec 270AA of the Act provides that the Assessing Officer may grant immunity from imposition of penalty under sec 270A of the Act provided the following conditions are met:*
>
> *a) **Demand determined in the order is being duly paid:** It may be stated that against the order passed under section 143(3) dated 28-03-2025, the company has filed rectification petition under section 154 dated 07-04-2025. Once the order under sec 143(3) is rectified by your kindself, there will be no taxable income in case of the company for the instant assessment year and hence, no consequential demand payable for the said assessment year. Copy of the petition filed under sec 154 is enclosed herewith and marked as Annexure-2.*
>
> *b) **No Appeal is being filed against the order** - In the instant case, the company has decided not to file an appeal against the captioned order*
>
> *c) **Application in Form 68 is filed within one month from the end of the month in which the order has been received** - The Company had filed the application in Form 68 on 09-04-2025 which is well within the prescribed timeline.*
>
> *d) Proceedings for penalty under section 270A had not been initiated under the circumstances referred to in sub-section (9) of the said section 270A."*
>
> *4.0 On perusal of above, It is seen that the company satisfies all the conditions prescribed in Sec 270AA for grant of immunity from imposition of penalty under sec 270A of the Act."*

17. Thus the petitioner has sought to demonstrate that it has satisfied all the conditions required for grant of immunity. Such application appears to have been filed within the time specified in Section 270AA of the said Act of 1961. The same therefore ought to have been considered by the

Assessing Officer in the right earnest while passing an order under Section 270AA of the said Act of 1961.

18. Section 270 AA of the said Act of 1961 is extracted hereinbelow:

> *“**270AA.** (1) An assessee may make an application to the Assessing Officer to grant immunity from imposition of penalty under section 270A and initiation of proceedings under section 276C or section 276CC, if he fulfils the following conditions, namely:-*
>
> *(a) the tax and interest payable as per the order of assessment or reassessment under sub-section (3) of section 143 or section 147, as the case may be, has been paid within the period specified in such notice of demand; and*
>
> *(b) no appeal against the order referred to in clause (a) has been filed.*
>
> *(2) An application referred to in sub-section (1) shall be made within one month from the end of the month in which the order referred to in clause (a) of sub-section (1) has been received and shall be made in such form and verified in such manner as may be prescribed.*
>
> *(3) The Assessing Officer shall, subject to fulfilment of the conditions specified in sub-section (1) and after the expiry of the period of filing the appeal as specified in clause (b) of sub-section (2) of section 249, grant immunity from imposition of penalty under section 270A and initiation of proceedings under section 276C or section 276CC, where the proceedings for penalty under section 270A has not been initiated under the circumstances referred to in sub-section (9) of the said section 270A.*

(4) The Assessing Officer shall, within a period of one month from the end of the month in which the application under sub-section (1) is received, pass an order accepting or rejecting such application:

Provided *that no order rejecting the application shall be passed unless the assessee has been given an opportunity of being heard.*

(5) The order made under sub-section (4) shall be final.

(6) No appeal under [section 246 or] section 246A or an application for revision under section 264 shall be admissible against the order of assessment or reassessment, referred to in clause (a) of sub-section (1), in a case where an order under sub-section (4) has been made accepting the application.]"

19. Sub-section 3 of Section 270AA reads in mandatory terms. A meaningful reading thereof makes it clear that once an assessee satisfies the conditions mentioned in the earlier limbs of the said section, the Assessing Officer would be bound to grant immunity to such assesse.

20. The order impugned dated May 27, 3035 could not have been passed without disclosing the basis for the conclusion as to why was (is) the petitioner not entitled to immunity and which of the conditions mentioned in Section 270AA of the said Act of 1961 the petitioner has failed to fulfil. There is no indication in the order impugned as to how have the petitioner's contention in its application for immunity been dealt with.

21. It is now well settled that reasons are live links between the narrative and the directive and that an order without reasons can also be treated as a nullity. Since the order impugned dated May 27, 2025 does not evince any application of mind to the matter by the Assessing Officer concerned and

it does not cite any reason on the basis of whereof the ultimate conclusion has been arrived at, therefore, the same cannot withstand judicial scrutiny.

22. In fact ***Schneider Electric South East Asia (HQ) Pte. Ltd.*** (supra) cited by the petitioners also emphasises on reasons being provided in the order declining immunity.

23. For all the reasons aforesaid, the order impugned dated May 27, 2025 passed under Section 270AA of the Income Tax Act, 1961 (pertaining to assessment year 2023-24) is set aside. The Assessing Officer concerned shall revisit the petitioners' application for grant of immunity, strictly in accordance with law and pass appropriate order upon affording an opportunity of hearing to the petitioners.

24. With the above observations, WPA 28765 of 2025 stands disposed of. No costs.

25. Urgent photostat certified copy of this order, if applied for, be supplied to the parties on urgent basis after completion of necessary formalities.

(Om Narayan Rai, J.)

Sws.M. AR(Ct.)