OD-8

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/181/2026

SONU MARKETING PRIVATE LIMITED
VS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE SMITA DAS DE
Date : June 12, 2026.

Appearance:
Mr. Pratyush Jhunjhunwala, Adv.
Ms. Sruti Datta, Adv.
Ms. Sakshi Singhi, Adv.
... for the petitioner.

Ms. Sanjukta Gupta, Adv.
Ms. Sukanya Dutta, Adv.
... for the respondent.

The Court: The core issue involved in the instant Writ Petition is whether the respondents are liable to issue Form 5 under the Direct Tax Vivad Se Vishwas Scheme 2020 for the Assessment Year 2015-16 when the petitioner has made payment of the disputed tax as computed in Form 3 but the said payment has wrongly clubbed with a payment of Assessment Year 2014-15.

The Learned Counsel appearing for the petitioner submits that the petitioner being the assessee had opted for the Direct Tax Vivad Se Vishwas Scheme 2020 for the Assessment Year 2014-15 and the 2015-16.

It is submitted that Form 3 was duly issued by the designated authority under the said scheme 2020 computing the amount payable for both Assessment years separately.

The petitioner made full payment of the amount specified in Form 3 for both Assessment Years 2014-15 and 2015-16 within the prescribed time.

Despite making such payments, Form 5 has been issued only for the Assessment Year 2014-15. Form 5 for the Assessment Year 2015-16 has not been issued till date. It is further submitted that the payment made by the petitioner specifically on account of Assessment Year 2015-16 has been erroneously clubbed by the Department with the payment made for Assessment Year 2014-15, thereby causing prejudice to the petitioner.

It is further contended once the declarant has made payment in terms of Form 3 the designated authority is under statutory obligation to issue Form 5 of the said Scheme, 2020. The failure to issue Form 5 is arbitrary and runs contrary to the scheme of the Act.

The Learned Counsel appearing for the respondents on instruction submits that the petitioner has indeed filed declarations for the Assessment Years 2014-15 and 2015-16 under the said scheme, 2020.

Due to a technical error in the Income Tax Business Application Portal the payment made by the petitioner for Assessment Year 2015-16 has been reflected against Assessment Year 2014-15.

It is conceded by the Learned Counsel that the petitioner has made payment of the amount determined in Form 3 for both the Assessment Years and the petitioner, is otherwise, eligible for issuance of Form 5 for Assessment Year 2015-16.

The Department has no objection to rectify the error and issue Form 5 for Assessment Year 2015-16 upon verification of the challan.

After careful consideration of the case and upon perusing the materials on record, this Court finds that there is no dispute that the petitioner filed declaration for both Assessment Years 2014-15 and 2015-16 and Form 3 has been issued and payments have been made by the petitioners accordingly in terms of thereof.

The only impediment to issue Form 5 for Assessment Year 2015-16 is the erroneous clubbing of the payment with Assessment Year 2014-15 due to a technical error on the portal. The respondents has candidly admitted the same.

The issuance of Form 5 is not discretionary once the conditions of the scheme have been fulfilled.

The department cannot take advantage of its own technical error to deny the benefit of the scheme to an eligible declarant.

This Court is of the considered view that the respondents are bound to rectify the error and issue Form 5 for Assessment Year 2015-16 and delink the payment made for Assessment Year 2015-16 from Assessment Year 2014-15 within a period of two weeks from the date of communication of this order. The designated authority is directed to issue Form 5 to the petitioner for the Assessment Year 2015-16 forthwith within a period of four weeks from the date of communication of this order upon due verification of the payment challan.

However, it is made clear that upon issuance of Form 5 all proceedings in respect of Assessment Year 2015-16 shall stand concluded in terms of Section 5(3) of the said Scheme 2020 and the Department shall not initiate any further proceedings for recovery of tax, interest or penalty in relation to the said Assessment Year.

With the above observation and directions the Writ Petition is disposed of. Since no affidavit has been called for the allegations made in the Writ Petition are deemed to have been denied by the respondents.

(SMITA DAS DE, J.)

gb/kc