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

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Date of decision: 08.11.2023+ **W.P.(C) 12091/2019**

SANJIV GUPTA

..... Petitioner

Through: Mr Jayant Mehta, Sr. Advocate with
Mr Abhimanyu Mahajan, Mr Sanyat
Lodha, Ms Sanjana Saddy and Mr
Satyam Srivastava, Advocates.

versus

CHIEF COMMISSIONER OF INCOME
TAX (CENTRAL) & ANR.

..... Respondents

Through: Mr Shailendera Singh, Sr. Standing
Counsel with Ms Dacchita Shahi and
Ms Anuja Pethia, Advocates.

CORAM:**HON'BLE MR JUSTICE RAJIV SHAKDHER****HON'BLE MR JUSTICE GIRISH KATHPALIA****[Physical Hearing/Hybrid Hearing (as per request)]****RAJIV SHAKDHER, J.: (ORAL)**

1. This writ petition seeks to challenge the order dated 09.03.2018 passed by respondent no.1 under Section 279(2) of the Income Tax Act, 1961 [In short, "the Act"].

1.1. *Via* the said order, respondent no.1 rejected the application filed by the petitioner for compounding the offences punishable under Sections 276C(1), 276D and 277 of the Act inter alia, concerning Assessment Year (AY) 2006-07.



2. Besides this, challenge is also laid to the order dated 30.05.2019 passed by the respondent no.1 whereby the petitioner's application for rectifying the order dated 09.03.2018 was rejected.

3. In addition to the aforesaid prayers, the petitioner has also sought issuance of mandamus to respondent no.1 for compounding the offences punishable under the aforementioned provisions for the period in issue.

3.1. However, in the alternative, the petitioner prays that respondent no.1 should consider *de novo, albeit*, in accordance with the law, the application dated 22.02.2016 filed by the petitioner, which was subject matter of the impugned order dated 09.03.2018.

4. An interlocutory prayer has also been made in the petition, whereby a direction was sought to stay further proceedings in the complaints with regard to the provisions of the Act referred to hereinabove.

5. A perusal of the impugned order dated 09.03.2018 would show that, in sum and substance, the petitioner's application was rejected as, according to the concerned officer, the petitioner had failed to furnish the complete bank statements of the accounts maintained by him in the Geneva Branch of HSBC Bank.

5.1 The impugned order also refers to the fact that the respondents/revenue had offered to assist in securing the bank statements, however, for that purpose, consent waiver forms had to be submitted, which when provided to the HSBC Bank, would have enabled the respondents/revenue to secure the bank statements.

6. We may note that it is the stand of the petitioner that consent waiver forms were, in fact, provided. In this regard, our attention is drawn to Annexure-P17, which is a covering letter dated 01.02.2017. It is contended



that once a request was made to furnish consent waiver forms, the petitioner submitted the same.

7. We are further informed by the petitioner that, in any event, bank statements for the period spanning between 31.12.1993 and 24.03.2011 of the accounts maintained by the petitioner with the aforementioned branch of the HSBC Bank are available.

8. Mr Shailendera Singh, learned senior standing counsel, who appears on behalf of the respondents/revenue, says that had the petitioner straightaway given the bank statements before the compounding application was considered, the matter would not have come to this pass.

9. We are informed that, the petitioner had furnished the bank statements in November, 2019 as well, *albeit* after the impugned order was passed.

10. Given the aforesaid position, we are of the view that the best way forward would be to direct the concerned officer to decide the petitioner's compounding application afresh, since, in any event, the bank statements are now available with the respondents/revenue.

11. Accordingly, the impugned orders dated 09.03.2018 and 30.05.2019 are set aside.

12. The concerned authority will adjudicate the petitioner's compounding application dated 22.02.2016 afresh. In case any further information is required, written communication(s) in that behalf will be addressed to the petitioner.

13. The petitioner and/or his authorised representative will also be accorded personal hearing in the matter by the concerned officer.

14. Needless to add, thereafter, the concerned officer will pass a speaking order; copy of which will be furnished to the petitioner.



15. The concerned officer will endeavour to dispose of the compounding application at the earliest, though not later than eight (8) weeks from the date of receipt of the order.
16. Till such time the concerned officer disposes of the compounding application dated 22.02.2016 and for a period of three (3) weeks thereafter, in case an adverse order is passed, the interim order dated 18.11.2019 will continue to operate.
17. The writ petition is disposed of in the aforesaid terms.
18. As is obvious from the reading the order, we have not expressed any opinion on the merits of the matter.
19. Parties will act based on the digitally signed copies of the order.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

NOVEMBER 8, 2023 / tr