26.09.25
D.K (P.A)
Item no.64
Ct No - 22

IN THE HIGH COURT AT CALCUTTA

Criminal Revisional Jurisdiction

CRR 4221 of 2025

Dilip Kumar Ghosh
-Vs-
Deputy Commissioner of Income Tax & Anr.

Mrs. Sreenita Ghoshdastidar
...**For the Petitioner.**

Learned Advocate for the petitioner seeks quashing of entire proceeding and subsequent orders passed in connection with Complaint Case No. 477 of 2022 initiated under Section 276C(1)(i)/277(i)/277A/279(1) of Income Tax Act, 1961 read with Section 120B of the Indian Penal Code pending before the Learned Additional Chief Judicial Magistrate at Sealdah, South 24 Parganas.

He submits that petitioner arraigned in the impugned proceeding on the basis of the complaint under Section 200 of Code of Criminal Procedure filed against him by the Deputy Commissioner of the Income Tax, Central Circle 4(3), Office at Aaykar Bhawan Poorva, 5th Floor, 110 Shantipally, Kolkata represented by (Ashok Kumar Pandey) before the Court of Learned Chief Judicial Magistrate at Sealdah with a prayer to take cognizance of offence under Section 276C(1)(i)/277(i)/277A/279(1) of Income Tax Act, 1961 read with Section 120B of the Indian Penal Code against the complainant on the grounds stated therein.

He further submitted that prior to this proceeding the complainant found the petitioner guilty of unaccounted income amounting to Rs.82,69,292/- and thereby initiated penalty proceeding against the petitioner for the alleged non-disclosure of income for the year 2018-2019. The order of Assessing Officer dated 31st March, 2022 was challenged before the Commissioner of Income Tax, Kolkata on 29th April, 2022 and he also challenged the show cause notice regarding penalty, before this Court in WPO 2518 of 2022 wherein Hon'ble Single Bench was pleased to stay the penalty proceeding vide order dated 26th September, 2022. This order was upheld by the Hon'ble Division Bench in APOT 198 of 2022.

Subsequently, the appeal before the Commissioner of Income Tax has allowed the appeal challenging the Assessment Order.

As a consequent thereto, Consequently, the impugned proceeding became infructuous, so is liable to be quashed.

Having considered the submission of Learned Counsel for the petitioner and perused the material on record, I find arguable question is involved in this criminal revision which needs to be determined after hearing.

Accordingly, this revisional application is admitted.

Petitioner is directed to serve a notice along with copy of this revisional application to O.P.1, Deputy Commissioner of Income Tax through Speed Post with AD and on O.P.2, the State of West Bengal through the office of the Learned Public Prosecutor, High Court at Calcutta and file affidavit-of-service by the adjourned date.

Let this matter appear on 4th November, 2025 before the Bench having determination

The impugned proceeding shall remain stayed for a period of 6 weeks from this day i.e. till 7th November, 2025.

Parties shall be at liberty to pray for extension or modification of the interim order upon notice to the other side.

The State shall produce the case diary on the next date.

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

(Uday Kumar, J.)