Item No.
SL.23
SD
25.2.26

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side.

WPA 23799 of 2025

Savitri Devi Healthcare Pvt. Ltd.
Vs.
Union of India & Ors.

Mr. Avra Mazumder
Ms. Alisha Das
Ms. Rupomita Ghosh ... ***For the Petitioner.***

Mr. Siddhartha Lahiri
Mr. Sujit Mitra ... ***For the Respondents.***

This writ petition has been filed against an order dated August 28, 2025 passed under Section 271E of the Income Tax Act, 1961 hereinafter the said Act of 1961 in respect of the assessment year 2017-2018 whereby penalty has been imposed upon the petitioner.

Mr. Mazumder, learned Advocate appearing for the petitioner has invited the attention of this Court to the assessment order dated October 1, 2019 passed under Section 143(3) of the said Act of 1961 and submitted that the same would reveal that there was not even a whisper of initiation of penalty proceedings against the petitioner and there was no indication that the assessing officer was satisfied that penalty proceeding should be initiated against the petitioner.

He then invites the attention of this Court

to the notice dated February 17, 2025 under Section 274 read with Section 271E of the said Act of 1961 and submits that the same also does not indicate that any satisfaction was reached by the relevant officer before issuance of such notice.

He further submits that when the assessment order was passed on October 1, 2019 without recording any satisfaction a fresh notice for initiation of penalty proceedings could not have been issued five and a half years after the passing of the order of assessment, that too without recording any satisfaction.

In support of his contention he has relied on a judgment of the Hon'ble Gujrat High Court in the case of **Principal Commissioner of Income-Tax Vs. Parivar Television Pvt. Ltd. Reported at (2025) 483 ITR 391(Guj**) and an order passed by a Coordinate Bench of this Court in the case of **Merlin Projects Limited. Vs. Joint Commissioner of Income Tax Central Circle Central Range 2 Kolkata & Ors. (WPO 290 of 2025).**

Mr. Lahiri, learned Advocate appearing fort the respondent/Revenue Authorities submits that the notice for initiation of penalty proceedings has been issued upon being duly satisfied that such proceedings should be initiated.

He further submits that the notice has been issued upon satisfaction being reached on the basis of audit objection raised by the Revenue Audit Authorities which is reflected in the order dated August 28, 2025 passed under Section 271E of the said Act of 1961.

He seeks time to file affidavit in opposition in order to appropriately answer the issues raised by Mr. Mazumder.

Mr. Mazumder, learned Advocate appearing for the petitioner submits that the point that satisfaction has been reached on the basis of the audit objection as recorded in the order dated August 28, 2025 was never put across to the assessee in the notice to show cause dated February 17, 2025 and as such the petitioner did not get any opportunity to deal with the same.

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

As at present, there is nothing on record to show that satisfaction as required under law has been reached and recorded by the relevant officer prior to initiation of the penalty proceedings. The order impugned dated August 28, 2025 also does not reveal that any such satisfaction was recorded or

reached.

Recording and reaching of satisfaction is a jurisdictional fact insofar as initiation of penalty proceedings are concerned. This court is of the *prima facie* view that in absence thereof, the proceedings may not be maintainable.

Since the petitioner has made out an arguable and strong *prima facie* case, therefore, the petitioner is entitled to get interim order in terms of prayer (e) of the writ petition.

Accordingly, the respondent Income Tax Authority shall stand restrained from proceeding further in terms of the impugned order dated August 28, 2025 passed under Section 271E of the said Act of 1961 as also consequential notice of demand under Section 156 of the said Act of 1961 for the Assessment year 2017-2018 till the end of June, 2026.

As prayed for, let affidavit in opposition to the writ petition be filed within four weeks from date.

Affidavit in reply thereto, if any, be filed within three weeks thereafter.

Let this matter appear for hearing after expiry of the time fixed for exchange of affidavits.

(Om Narayan Rai, J.)