APHC010620052023

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

Bench Sr.No:-22
[3543]

WRIT PETITION NO: 32115 of 2023

N. Venu Gopal Reddy, ...Petitioner

Vs.

Union Of India and Others ...Respondent(s)

****

CORAM : SRI JUSTICE NINALA JAYASURYA
SRI JUSTICE T.C.D.SEKHAR

DATE : 24th August 2026

Present :

Advocate for Petitioner: VIVEK CHANDRA SEKHAR S

Advocate(s) for Respondent(s): Y V ANIL KUMAR (Central Government Counsel), Y N VIVEKANANDA

HON'BLE SRI JUSTICE NINALA JAYASURYA

AND

HON'BLE SRI JUSTICE T.C.D. SEKHAR

WP No.32115 OF 2023

ORDER:- *(Per Hon'ble Sri Justice T.C.D.Sekhar)*

1. The petitioner is a registered person under Income Tax Act having engaged in the business of Works Contracts. Pursuant to search operation on the premises of the petitioner, the respondent authorities took up the assessment against the petitioner and accordingly raised a demand of Rs.29,60,420/- vide assessment order dt.28.03.2014 passed under Section 143 (3) r/w. Section 254 of Income Tax Act, 1961.

2. Aggrieved by the said assessment order, the petitioner preferred appeal and in view of introduction of DTVSV scheme (Direct Tax Vivad se Vishwas Scheme) by the Government of India, the appeal was withdrawn with liberty to file appropriate application under the said scheme. This scheme provides mechanism for resolution of pending tax disputes related to Income Tax. In this scheme, tax payers are provided an opportunity to settle their disputes by paying the disputed tax amount without any interest or penalty.

3. The petitioner approached the respondent authorities expressing his intention to avail the said scheme and accordingly filed declaration in Form-I, dt.23.12.2020. After processing the request of the petitioner, the 2nd respondent issued a certificate in Form-3 by mentioning the amount payable by the petitioner towards full and final settlement of the alleged tax earlier under the said scheme. As per Form-3, the petitioner was directed to pay an amount of Rs.25,96,438/- on or before 31.03.2021 and an amount of Rs.28,56,082/- after 31.03.2021.

4. The petitioner noticing certain discrepancies in Form-3, dt.29.01.2021 in computation, approached the respondent Nos.2 & 3 vide letter dt.12.02.2021 to rectify the error crept therein, so as to make the necessary payments. Since, the petitioner was directed to pay the tax on or before 30.09.2021, while pending consideration of this letter dt.12.02.2021, he made certain payments during the interregnum. After realizing the mistake in computation, the respondent authorities issued revised Form-3, dt.29.10.2021 requiring the petitioner to deposit an amount of Rs.23,36,812/- on or before 30.09.2021, otherwise an amount of Rs.25,70,493/- after 30.09.2021. In view of issuance of revised Form-3, the petitioner has paid the balance amount of entire tax (total Rs.23,36,812/-) on

30.10.2021. After payment was made, the petitioner filed Form-4, dt.30.10.2021 intimating the same to the respondent authorities. However, the 4th respondent issued demand notice dt.12.04.2023 asking the petitioner to pay an amount of Rs.6,23,708/- on the premise that the petitioner has paid an amount of Rs.23,36,812/- on 30.10.2021, which is not in consonance with Form-3, dt.29.10.2021, inasmuch as the petitioner has did not adhere to the time limit prescribed thereunder. Further, the 2nd respondent also passed order dt.15.09.2023 under Section 220(2)(A) of the Act charging interest on the petitioner for the delayed payment. Questioning these proceedings, the present is filed *inter alia* challenging the action of respondent authorities in not closing the issue by furnishing Form-5 to the petitioner.

5. Heard Sri Avula Aakash, counsel representing Sri S.Vivek Chandrasekhar and Sri Y.N.Vivekananda, learned Senior Standing Counsel for Income Tax.

6. Perused the record.

7. The counsel for the petitioner would contend that having issued revised Form-3 asking the petitioner to pay an amount of Rs.23,36,812/-, the respondents authorities ought to have

issued Form-5 by closing the entire issue under the aforesaid scheme. He would further contend that revised Form-3 was issued on 29.10.2021 and a perusal of the same, would show that the petitioner was directed to pay the amount mentioned therein on or before 30.09.2021, which is impossible, that the same was either inadvertently or to deny the benefit conferred under the said scheme.

8. On the other hand, the learned counsel appearing for the department while not disputing the issuance of revised Form-3, dt.29.10.2021 would submit that the petitioner failed to comply with the time prescribed and admittedly made the payment on 30.10.2021 and supports the order under challenge.

9. It is not in dispute that, the 2nd respondent had issued revised Form-3, dt.29.10.2021 after accepting with the fact that, there were some mistakes in initial Form-3, dt.29.01.2021. Having accepted the mistakes crept in while computing the tax, the 2nd respondent by no stretch of imagination, could direct the petitioner to do an act of impossibility, inasmuch as revised Form-3 was issued on 29.10.2021, through which the petitioner was asked to make payment of tax mentioned therein on or before 30.09.2021. It

is humanly impossible to comply with such a condition inasmuch as the petitioner cannot set the clock back.

10. Further, a perusal of Section 5 (1) & (2) of The Direct Tax Vivad se Vishwas Act, 2020, it is clear that the designated authority shall within a period of 15 days from the date of receipt of declaration, by order, determine the amount payable by the declarant in accordance with the provisions of the said Act and grant a certificate of declaration containing particulars of the tax arrears and the amount payable after such determination in the such form as prescribed. Further, under Section 5(2), the declarant shall pay the amount determined under sub section (1) within 15 days from the date of receipt of certificate and intimate the same to the designated authority in prescribed form and thereafter, the authority has to pass an order stating that the declarant has paid the amount.

11. In the case on hand, after issuance of revised Form-3, dt.29.10.2021, the petitioner/declarant paid the amount mentioned therein on 30.10.2021 and intimated the same to the designated authority through Form-4, dt.30.10.2021. These facts are not in dispute. Admittedly, the petitioner had paid the amount within the time stipulated under Section 5(2) of the said Act, therefore it is incumbent on the part of the respondent authorities to pass order

stating that the petitioner/declarant has paid the amount, instead the respondent authorities resorted to coercive action against the petitioner by issuing demand notice dt.12.04.2023, which is equally unsustainable under law.

12. In the circumstances, the impugned demand notice dt.12.04.2023 issued by the 4th respondent and the order dt.15.09.2023 issued by the 2nd respondent are set aside and the writ petition is allowed. It is further directed that the respondent authorities shall pass order under Section 5(2) of The Direct Tax Vivad se Vishwas Act, 2020 and issue Form-5 in favour of the petitioner within a period of six (06) weeks from the date of receipt of copy of the order.

There shall be no order as to costs. As a sequel, pending applications, if any shall stand closed.

JUSTICE NINALA JAYASURYA

JUSTICE T.C.D. SEKHAR

24.08.2026
DR

27

HON'BLE SRI JUSTICE NINALA JAYASURYA
AND

THE HONOURABLE SRI JUSTICE T.C.D. SEKHAR

WP No.32115 of 2023
Date 24.08.2026

U
DR