



BOM HC: Compounding Application Period To Be Reckoned From Date Of Service Of Prosecution Complaint; Rejects 50% Enhancement

Facts of the Case:

The Petitioners were facing prosecution proceedings u/s 276B read with section 278B of the Income Tax Act 1961 ('Act') for AY 2022-23. A prosecution complaint was filed on 10 July 2023, however, the Petitioners became aware of the complaint only on October 1, 2024 when summons were served upon them. The Petitioners thereafter filed an application for compounding on April 9, 2025.

The Chief Commissioner of Income Tax (TDS) subsequently levied compounding charges of Rs. 3,23,05,743 by applying a 50% enhancement under the Guidelines for Compounding of Offences, 2024, reckoning the 12-month period from the date of filing of the complaint.

Contentions of the Revenue:

The Revenue contended that the requirement to serve a copy of the prosecution complaint within 15 days was introduced only under the 2024 Guidelines and was not prescribed under the 2022 Guidelines, which were in force when the complaint was filed. Accordingly, the 12-month period for determining the enhanced compounding charges was sought to be reckoned from the date of filing of the complaint.

Contentions of the Assessee:

The Petitioners submitted that the 2024 Guidelines applied to pending compounding applications and specifically required service of the prosecution complaint upon each accused to facilitate prompt filing of the compounding application. Since the complaint was served only on October 1, 2024, the 12-month period should be reckoned from the date of such service and not from the date on which the complaint was filed.

Observations and Ruling of the Hon'ble High Court:

The Bombay High Court held that the Revenue's contention that it had no obligation to serve the complaint prior to the 2024 Guidelines was untenable. The Court observed that the 2024 Guidelines applied to pending applications and that, where different levels of compounding charges depend upon the time of filing, fairness requires prompt service of the complaint upon the accused.

The Court further held that the 12-month period for determining the enhanced compounding charges must be reckoned from the date on which the accused is actually served with the prosecution complaint. Since the Petitioners received the complaint on 1 October 2024 and filed their application within 12 months thereafter, the 50% enhancement was held to be unwarranted. Accordingly, the High Court quashed the impugned intimation and order and directed the Revenue to recompute the compounding charges at the normal rate, without applying the 50% enhancement.

Citation:

Wadhwa Group Holdings Ltd. and Ors. v. Chief Commissioner of Income Tax (TDS), Mumbai and Ors. [TS-1420-HC-2026(BOM)]

Our Comments:

The ruling clarifies that the benefit of the prescribed period for filing a compounding application cannot be curtailed by reckoning time from a date on which the accused had not yet been served with the prosecution complaint. It also emphasises that prompt service is integral to the fair administration



of the compounding mechanism, particularly where delay can result in enhanced compounding charges.