

(2000) 03 DEL CK 0043

In the Delhi High Court

Case No : Civil Writ Petition No. 2842/99

Jyotsna Holdings Pvt. Ltd.

APPELLANT

Vs

Designated Authority under the Kar Vivad Samadhan Scheme

RESPONDENT

Date of Decision : 14-03-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Finance Act, 1960 — Section 156, 215

Income Tax Act, 1961 — Section 220, 87

Citation : (2000) 4 AD 461 : (2000) 53 DRJ 696 : (2000) 243 ITR 246 : (2000) 110 TAXMAN 105

Hon'ble Judges : D.K. Jain, J;Arun Kumar, J

Bench : Division Bench

Advocate : Mr. M.S. Syali and Mr. Satyen Sethi, for the Appellant; Mr. R.D. Jolly, Senior Standing Counsel and Ms. Prem Lata Bansal, Jr. St. Counsel, for the Respondent

Judgement

supersession annexed annexure D.K. Jain, J.—Two short but interesting questions namely: (i) whether interest u/s 220(2) of the Income Tax Act, 1961 (for short "the Act") forms part of "tax arrear" as defined in Section 87(m) of the Kar Vivad Samadhan Scheme ("KVSS" for short) and (ii) if it does, whether the same could be demanded after issue of final certificate u/s 90(2) of the KVSS, arise for consideration in the present case.

2. The facts lie in a narrow compass. The petitioner is a private limited company. For the assessment year 1988-89 it was assessed on a total income of Rs. 6,26,81,410/- and on the basis of this assessment, a tax demand of Rs. 3,61,98,513/- was created. A further sum of Rs. 1,53,31,342/- was determined as payable on account of interest u/s 215 of the Act. The petitioner challenged the levy of interest u/s 215 by filing an appeal before the Commissioner of Income Tax (Appeals) but was unsuccessful. The petitioner took the matter in further appeal to the Tribunal. While the appeal was pending, the Government of India introduced the KVSS, contained in Chapter IV of the Finance (No. 2) Act,

1998, with a view to provide a quick and voluntary settlement of tax arrears outstanding as on 31st March, 1998. Initially the scheme was to be in operation up to 31st December, 1998 but subsequently it was extended for a further period of one month i.e. up to 31st January, 1999.

3. On 2nd September, 1998 the petitioner filed a declaration under the said Scheme in respect of interest charged u/s 215 of the Act, amounting to Rs. 1,53,31,342/-. In the said declaration, the tax arrear outstanding as on 31st March, 1998 towards interest u/s 215 was shown at Rs. 1,35,53,483/-, which, according to the covering letter filed with the declaration, was arrived at after making adjustments for the amounts recovered/adjusted by the Department up to 31st March, 1998.

4. On 21st October, 1998 a certificate of intimation was issued to the petitioner u/s 90(1) determining the amount payable by the petitioner towards the full and final settlement of its tax arrears covered under the declaration and the petitioner was directed to make payment of Rs. 67,80,008/- on tax arrear of Rs. 1,35,60,015/- representing the interest charged u/s 215 of the Act. On petitioner's making payment of the said amount, a certificate in Form-3 for full and final settlement of tax arrears u/s 90(2) read with Section 91 of the Finance (No. 2) Act, 1998 was issued to the petitioner on 7th December, 1998 by the Designated Authority. The afore noted details were mentioned in the said certificate.

5. On 17th February, 1999 the petitioner received an order dated 10th February, 1999 calling upon the petitioner to pay a further sum of Rs. 37,91,512/- within thirty days from the date of the order in respect of the said declaration. The said amount was determined to be payable on the interest u/s 220(2), amounting to Rs. 75,82,304/-, worked out till 31st March, 1998. Since the said order is under challenge in this petition, for the sake of ready reference it is reproduced hereunder:

"Sub: Declaration under KVSS intimation u/s 90(1) of the Finance (No. 2) Act, 1998 - amendment thereof information reg.

Please refer to the above.

An order u/s. 90(1) of the Finance (No. 2) Act, 1998, in Form 2A was passed in your case vide order dated 21.10.1998 whereby tax arrears for the assessment year 1988-89 were determined at Rs. 1,35,60,015/- comprising of penalty u/s. 215.

In accordance with Board's circular dated 5.1.1999 where the tax arrears comprising of only interest, interest u/s 220(2) of the I. T. Act is to be worked out till 31.3.1998 and the declarant is entitled to waive of 50% thereof. In your case interest u/s. 220(2) was not charged. Now interest u/s. 220(2) has been worked out till 31.3.1998 which comes to Rs. 75,82,304/- and accordingly you are required to pay additional amount of Rs. 37,91,152/- (50% of the interest

as worked out) over and above the amount of Rs. 67,80,008/- which had already been intimated to you vide order u/s. 90(1).

The above amount of Rs. 37,91,512/- can be paid within a period of 30 days from the date of this order.

The earlier order u/s 90(1) dated 21.10.1998 is modified to this extent.

Yours faithfully.

Sd/-

(P. SAXENA)

Designated Authority

Commissioner of Income Tax

Delhi-III, New Delhi."

6. Vide their letter dated 8th March, 1999 the petitioner objected to the raising of the said additional demand on the ground that the final certificate, certifying the payment of the amount determined to be payable as full and final settlement of tax, in terms of order dated 21st October, 1998, having been issued, nothing remained to be due or to be done on the part of the petitioner in the matter. Accordingly, the petitioner did not make payment so demanded. The petitioner received yet another letter dated 31st March, 1999 from the Designated Authority informing them that since in the light of the Board's circular dated 5th January, 1999 the benefit of KVSS, 1998 was limited to interest u/s 215 only and the benefit under the said Scheme was not applicable to interest u/s 220, a sum of Rs. 75,82,304/-, was still outstanding against the petitioner, which required to be paid by the petitioner. It is this action of the Designated Authority which is sought to be challenged in this petition.

7. According to the petitioner, interest u/s 220(2) of the Act is not a part of the tax arrear determined as due or payable as on 31st March, 1998 but even assuming it to be a part of the tax arrear, the same having not been demanded as payable in the initial order/certificate issued u/s 90(1), there is no power of rectification available for the Designated Authority to amend the certificate issued for full and final settlement.

8. In response to the show cause notice, reply affidavit has been filed by the Commissioner of Income Tax, resisting the petition. It is explained that the KVSS covers two broad categories of tax arrears, as on 31st March, 1998, namely: (i) the category relating to tax arrears, in respect of the Income Tax, interest payable or penalty levied for which the declarants were required to pay under the Scheme a tax at the rate of 35% of the disputed income and (ii) the category relating to only the interest payable or penalty livable for which a declarant was required to pay 50% of the tax arrears covered under the second category. It is pleaded that the tax arrears cover all types of interests payable as on 31st

March, 1998 and no specific reference had been made in the Scheme to a particular interest payable under different provisions. It is also pointed out that vide a circular issued by the Central Board of Direct Taxes on 5th January, 1999 it was clarified that where the tax arrears comprise of only interest payable or penalty levied, interest u/s 220 may be worked out till 31st March, 1998 and a declarant would be entitled to the waiver of 50% thereof. As regards the power to amend the certificate issued to a declarant, reliance is placed on the second proviso to Section 90 of the Finance Act. In nutshell the stand of the Revenue is that interest u/s 220(2) forms part of tax arrear and if the tax under the Scheme has not been paid on this interest, the same can be demanded by carrying out amendment of the certificate already issued.

9. We have heard Mr. M.S. Syali, learned, senior counsel for the petitioner and Mr. R.D. Jolly, learned senior standing counsel for the Revenue.

10. It is submitted by Mr. Syali that : (a) since the interest u/s 220(2) of the Act continues to run till the demand outstands, it can be determined only when the demand is paid and, Therefore, because interest under the Section is not determinable as due or payable as on 31st March, 1998 it cannot form part of the tax arrear as defined u/s 87(m)(i) of the Finance Act and (b) since it is now accepted by the Department that interest u/s 220(2) is a part of the tax arrear, but the tax payable under the KVSS on this amount having not been demanded as payable in the initial order/certificate made u/s 90(1), the same cannot be recovered now by amending the certificate already issued for full and final settlement as the Scheme does not vest the Designated Authority with power to rectify the final certificate. It is urged that since the law envisages a period of sixty days from the date of receipt of declaration for the Designated Authority to determine the sum payable under the KVSS and provide for a period of thirty days for payment of the said sum, only the certificate issued under sub-section (1) of Section 90 could be amended under the second proviso the said sub-section and that too for reasons to be recorded in writing, before a final certificate under sub-section (2) of the said Section is issued. It is maintained that once a certificate under sub-section (2) of Section 90 is issued, the power of amendment under the second proviso to Section 90(1) cannot be exercised because the provisional certificate issued under sub-section (1), demanding the sum payable, merges into the final certificate and, Therefore, the provisional certificate, which could be amended, ceases to exist. To buttress the argument, support is sought to be derived from the language of sub- section (3) of Section 90, which declares that every order passed under sub-section (1), determining the sum payable, is conclusive as to the matters stated therein. It is, Therefore, contended that in the absence of specific provision in this behalf, neither any inherent power exists nor can it be invoked to amend the final certificate/order. In support, reliance is placed on a decision of the Bombay High Court in Laherchand Dhanji Vs. Union of India and others, , wherein, while dealing with the Voluntary Disclosure of Income and Wealth Act, 1976, it was held that unless the statute gives a right to review or rectify a mistake, it was not open to the

authority to by-pass the provisions of the said Act and the Scheme to nullify an order which had been passed earlier while exercising the powers under the statute.

11. On the other hand, the stand of Mr. Jolly, learned counsel for the Revenue, is that levy of interest u/s 220(2) of the Act forms part of the tax arrear and if the petitioner wanted to avail of the benefit granted under the KVSS, they should have included in their declaration the amount of interest payable under the said Section and paid tax thereon under the Scheme but the petitioner having failed to do so, the Designated Authority is competent to demand tax on this amount. It is, however, urged that if the petitioner is not interested in availing of the benefit of the KVSS in respect of the interest amount under the said Section, they would be liable to pay the entire amount of interest as determined to be payable as on 31st March, 1998.

12. Before taking up the afore noted questions for consideration, it would be necessary to briefly refer to the relevant provisions of the Finance Act. As noted above, the Scheme is contained in Chapter (IV) of the Finance (No. 2) Act, 1998, comprised in Sections 86 to 98 (both inclusive) as also a schedule thereto. Section 88 provides that subject to the provisions of this Scheme, where any person makes on or after September 1, 1998, but on or before December 31, 1998 (later extended up to January 31, 1999) a declaration to the Designated Authority in accordance with the provisions of Section 89 in respect of "tax arrear", then, notwithstanding anything contained in any direct tax enactment or indirect tax enactment or any other provision of any law for the time being in force, the amount payable under this Scheme by the declarant shall be determined at the rates specified thereunder.

13. Section 89 prescribes the manner in which declaration has to be made to the Designated Authority. Section 90 stipulates the time and manner for payment of "tax arrear" and the consequences that follow. Since a lot of emphasis is laid by learned counsel for the petitioner on the provisions of law contained in Section 90, the relevant clauses of the Section are reproduced hereunder :

"90(1) Within sixty days from the date of receipt of the declaration u/s 91, the designated authority shall, by order, determine the amount payable by the declarant in accordance with the provisions of this Scheme and grant a certificate in such form as may be prescribed to the declarant setting forth therein the particulars of the tax arrear and the sum payable after such determination towards full and final settlement of tax arrears:

Provided that where any material particular furnished in the declaration is found to be false by the designated authority at any stage, it shall be presumed as if the declaration was never made and all the consequences under the direct tax enactment or indirect tax enactment under which the proceedings against the declarant are or were pending shall be deemed to have been revived :

Provided further that the designated authority may amend the certificate for

reasons to be recorded in writing.

(2) The declarant shall pay, the sum determined by the designated authority within thirty days of the passing of an order by the designated authority and intimate the fact of such payment to the designated authority along with proof thereof and the designated authority shall thereupon issue the certificate to the declarant.

(3) Every order passed under sub-section (1), determining the sum payable under this Scheme, shall be conclusive as to the matters stated therein and no matter covered by such order shall be reopened in any other proceeding under the direct tax enactment or indirect tax enactment or under any other law for the time being in force.

(4) xxxxxxxxxxxxxxxxxxxxxxxx"

14. The abovementioned provisions provide that in the first instance the Designated Authority shall determine within sixty days from the date of receipt of declaration u/s 88, the amount payable by the declarant in accordance with the provisions of the Scheme and grant a certificate in such form as may be prescribed to the declarant, setting forth therein the particulars of the tax arrear and the sum payable after such determination towards full and final settlement of tax arrear. Within thirty days of the passing of the order by the Designated Authority, the declarant is required to pay the amount so, determined by the Designated Authority and intimate the fact of such payment to the Designated Authority along with the proof thereof. On receipt of such intimation along with the proof of payment, the Designated Authority is required to issue a certificate to the declarant to that effect u/s 90(2). As per sub-section 3 of Section 90, every order passed under sub-section (1), the determination of the sum payable under this Scheme, shall be conclusive as to the matter covered by such order and no matter covered by such order shall be reopened in any other proceeding under the direct tax enactment or indirect tax enactment or under any other law for the time being in force.

15. Section 91 provides that on fulfillment of certain conditions stipulated in Section 90, the Designated Authority shall grant immunity from instituting any proceedings for prosecution for any offence under any direct tax enactment or indirect tax enactment, or from the imposition of penalty under any such enactment, in respect of matters covered in the declaration u/s 88.

16. The term "tax arrear", is defined in sub-section (m) of Section 87. So far as it relates to the direct tax enactment, it reads as under :

"(m) "tax arrear" means :-

(i) in relation to direct tax enactment, the amount of tax, penalty or interest determined on or before the 31st day of March, 1998 under that enactment in respect of an assessment year as modified in consequences of giving effect to an appellate order but remaining unpaid on the date of declaration."

17. According to the definition, the tax arrear in relation to direct tax enactment means the amount of tax, penalty or interest determined on or before March 31, 1998 under that enactment, i.e. the Act, in respect of an assessment year as modified in consequence of giving effect to an appellate order but remaining unpaid on the date of declaration.

18. The expression "disputed tax" is also defined to mean the total tax determined and payable, in respect of an assessment year under any direct tax enactment but which remains unpaid as on the date of making the declaration u/s 88.

19. The central idea of the KVSS is the existence of "tax arrear" and pendency of dispute at the appropriate forum as on the date of filing of the declaration and culmination of such pending proceedings or dispute on payment of the amount determined under the Scheme and fulfillment of certain other conditions enumerated therein. The non-payment of tax, interest or penalty in respect of a particular assessment year, which has been determined on or before March 31, 1998, and the existence of a dispute relating to such tax arrear is, Therefore, sine qua non for the applicability of the KVSS. Once an amount of tax, interest or penalty has been determined under the Act, which remains unpaid because of some dispute, the KVSS will operate.

20. In the light of these provisions, we shall now proceed to deal with the issues arising for decision. The first question for consideration is whether interest payable u/s 220(2) of the Act would fall within the ambit of "tax arrear".

21. It is not in dispute that interest levied on the petitioner u/s 215 of the Act had not been paid as on 31st March, 1998 and appeal against the said levy was pending. Only this amount, representing interest u/s 215, was treated as "tax arrear" by the petitioner and declaration in respect thereof was filed u/s 88 of the Finance Act. Section 220(2) of the Act provides for levy of interest in case the amount covered in the notice of demand issued u/s 156 of the Act is not paid within the time stipulated therein. It is a statutory levy and the rate of interest on the unpaid demand is determined by the direct tax enactment i.e. the Act itself. A plain reading of the said Section suggests that the liability to pay interest at the rate prescribed in sub-section (2) is automatic and unconditional. The liability to pay interest under the said Section is fixed under the direct tax enactment and is absolute, though the quantification of the amount payable is made later when the amount reflected in the notice of demand is ultimately paid. In *All India Federation of Tax Practitioners Vs. Union of India and Others*, the KVSS was examined threadbare by a division bench of this Court. While upholding the validity of the KVSS by reading down some of its provisions, speaking for the Bench, R.C. Lahoti, J. (as his Lordship then was) very succinctly explained the scope of the Scheme. It was observed, though in a different context, that "a determination of liability to pay tax does not necessarily call for an order of adjudication. Several provisions prescribe for penalty or interest, which liability is incurred automatically and by operation of law." It is also not in

dispute that on account of non-payment of interest u/s 215 of the Act, the petitioner had incurred liability to pay interest u/s 220(2), unless the demand on that account was wiped out by virtue of an appellate order.

22. In our view once the liability to pay the amount of interest u/s 220(2) is incurred automatically by operation of law, which stands determined under the Act on 31st March, 1998, it is evident from the language of Section 87(m) that it would constitute "tax arrear" within the meaning of the said Section. The Section does not specify the nature of interest or penalty and, Therefore, each and every type of interest or penalty, which could be "determined" on or before 31st March, 1998 but remaining unpaid, would constitute "tax arrear". Once the petitioner treats the interest payable u/s 215 as tax arrear, it cannot be heard to say that interest livable u/s 220(2) does not form part of "tax arrear".

23. At this stage we may also examine the stand of learned counsel for the petitioner that the clarification issued by the Central Board of Direct Taxes vide circular No. Samadhan-2/98 [reported in (1998) 233 ITR 124], particularly answer to question No. 29, itself indicates that CBDT was also of the view that interest u/s 220(2) did not form part of the tax arrear. The said question and answer thereto reads as under :

Question No. 29 -Interest u/s 220 is determined only after final payment of tax demanded. This may, Therefore, not form part of the tax arrear determined on or before 31-3-1998. Will such interest be open for waiver?

Answer Yes. The designated authority has been given power to waive interest and penalty where the tax arrear comprises tax, interest and penalty and determine the sum payable in full and final settlement of tax arrears.

24. It is clear from the above that question No. 29 proceeds on the basis that the interest u/s 220 would be determined only after the preliminary demand of tax is made and, Therefore, the interest amount forms part of tax arrears determined on or before March 31, 1998, and the question that was raised was whether such interest would be open for waiver and the answer given was "yes". The answer to the said question being in the affirmative, it qualified for waiver under the KVSS, and, Therefore, it is axiomatic that according to the CBDI, interest u/s 220(2) formed part of "tax arrear". Therefore, there is no substance in the said stand of petitioner's counsel.

25. Besides, in the letter dated January 5, 1999, issued by the CBDT to all Chief Commissioners to which reference was also made by learned counsel for the petitioner. It has been clarified that where tax arrear comprises only the interest payable, as in the present case, or penalty levied, the interest u/s 220 may be worked out till March 31, 1998 and the declarant would be entitled to a waiver of 50% thereof. In view of the provisions contained in Section 88(a)(iv) and the definition of "tax arrear" appearing in Section 87(m), no interest u/s 220(2) can be charged in such cases beyond March 31, 1998. The said clarification leaves little room for doubt that interest u/s 220(2) constitutes "tax arrears" thus,

subject to KVSS.

26. We now take up the second question, namely: whether after the issue of certificate u/s 90(2), the Designated Authority could demand under the KVSS 50% of the amount of interest payable u/s 220(2) on the interest charged u/s 215 of the Act and determined to be payable as on March 31, 1998.

27. The Scheme is meant to provide a quick and voluntary settlement of tax dues outstanding as on March 31, 1998 by offering waiver of a part of arrears of tax, interest and penalty and providing immunity against institution of prosecution and imposition of penalty. It is an optional package for a declarant to avail of the benefits granted under the Scheme but once he opts to avail of the benefits under the Scheme, he is required to make a declaration in respect of the entire "tax arrear" for the relevant assessment year and is required to pay the amount to be determined under the KVSS.

28. Since we have come to the conclusion that interest chargeable u/s 220(2) of the Act forms part of the "tax arrear", the petitioner was obligated to include the amount of interest under the said Section in the declaration filed u/s 88 but they raised to do so and, there fore, there was no occasion for the Designated Authority to determine the amount payable under KVSS on the amount representing interest u/s 220(2) of the Act. Therefore, the question arises whether under these circumstances, when a declarant fails to include in its declaration u/s 88 the amount which it was bound to include and the Designated Authority does not take into account this amount while determining the amount payable by the petitioner in accordance with the provisions of the KVSS, could the declarant be later asked to pay tax under the Scheme on the said amount?

29. The provisions contained in the Scheme are to be construed in the light and context of the object sought to be achieved. The object and the purpose of the Scheme is to recover the revenue, which the Department claims to be due to it but is locked up in litigation, by offering some concessions to the assessee. The above analysis of the provisions of the Finance Act, in particular Section 90, shows that the amount payable by the declarant has to be determined on the "tax arrear" as defined in Section 87(m) in accordance with the provisions of the Scheme and its payment by the declarant results in declaration that matters covered by such orders shall be conclusive and shall not be re-opened in any proceedings under the direct tax enactment or indirect tax enactment or under any other law for the time being in force. In other words, the pending disputes come to an end only on determination and payment of tax at the rate(s) specified under the Scheme in respect of the entire "tax arrear" pertaining to a particular assessment year irrespective of the fact whether the declarant has made declaration in respect of the entire tax arrear or not.

30. In the instant case, as noted above, the petitioner did not include in their declaration the amount payable as interest u/s 220(2) of the Act and if the provisions of the Scheme were to be construed strictly, the Designated Authority

ought to have out rightly rejected the declaration as being incomplete and in that event the petitioner would not have been entitled to any immunity u/s 91. But the basic issue is whether the Designated Authority having chosen not to adopt the said course, which undoubtedly would have been detrimental to the petitioner, and having determined the amount payable by the petitioner only on the basis of their declaration, the amount now determined to be payable under the Scheme could be recovered?

31. Section 90 of the Finance Act vests jurisdiction in the Designated Authority to "determine" the amount payable by the declarant under the Scheme. According to the Black's Law Dictionary the term "determination" means "the decision of a Court or administrative agency. It implies an ending or finality to a controversy or suit". The use of the term "determination" in the said Section implies that the jurisdiction vested in the Designated Authority is quasi judicial in nature, particularly in view of the consequence which would flow from the said determination. It is well settled by a catena of decisions of the Apex Court that a quasi-judicial authority, in the absence of specific powers, has inherent power for achieving the ends of justice, to prevent the abuse of its process because such power is a necessary concomitant to the principal jurisdiction conferred on it. Reference in this regard may be made to ITO, Cannanore Vs. M.K. Mohammed Kunhi, AIR 1969 SC 430 and M/s. J.K. Synthetics Ltd. Vs. Collector of Central Excise, .

32. In the light of these pronouncements, we are of the considered opinion that to give a purpose oriented meaning to the Scheme, once it is held, as it must inevitably be, that interest u/s 220(2) of the Act constitutes "tax arrear", the Designated Authority was justified in issuing fresh certificate, directing the petitioner to pay additional amount under the Scheme on the interest element u/s 220 of the Act, determined to be payable as on 31st March, 1998. We do not see any bar, express or implied, with regard to the competence of the Designated Authority to issue fresh demand letter, particularly when we find that the issue of impugned letter dated 10th February, 1999 is beneficial to the petitioner inasmuch as if the tax payable under the Scheme is not determined and paid as per the provisions of the Scheme, the petitioner will not be entitled to any immunity u/s 91 in respect of this amount, which would frustrate the entire object of the Scheme. Immunity u/s 91 has to be in respect of the matters covered by the declaration u/s 88. Admittedly, interest u/s 220(2) does not form part of declaration by the petitioner u/s 88.

33. We do not find much substance in the contention of learned counsel for the petitioner that demand of additional amount amounts to amendment of the certificate already issued for full and final settlement, which, in the light of the provisions of law contained in the sub-section 3 of the Section 90, the Designated Authority is not competent to do. As noticed above, the initial order and the certificate issued to the petitioner u/s 90(1) of the Act was in respect of the amount declared by the petitioner, which did not include the interest u/s

220(2) of the Act and, Therefore, the question of amendment of the certificate already issued in terms of second proviso to Section 90 does not arise in the instant case. Similarly, the interest u/s 220(2) having been neither declared in the declaration nor included in the determination of amount payable, the provisions of sub-section 3 will not be attracted insofar as the said interest is concerned.

34. During the course of hearing, we pointedly asked learned counsel for the Revenue to clarify as to why and the circumstances in which the letter dated 31st March, 1999 was issued informing the petitioner that the benefit under the Scheme was not applicable to interest u/s 220 amounting to Rs. 75,82,304/-. The Explanation given was the failure of the petitioner to deposit within the stipulated time the amount demanded vide letter dated 10th February, 1999 and that the stand of the respondents continues to be that interest u/s 220(2) does form part of the "tax arrear" within the meaning of Section 87(m). The clarification tendered sets at rest the alleged confusion about the respondent's stand on this issue.

35. In view of the foregoing discussion, we are unable to accept the contentions raised by learned counsel for the petitioner. We reject the same. The writ petition is accordingly dismissed and the Rule is discharged. However, having regard to the fact that there was some bona fide controversy with regard to the issue whether interest u/s 220(2) was part of tax arrears, we feel that the petitioner deserves one more opportunity to comply with respondent's letter dated 10th February, 1999 and pay the additional amount demanded. Accordingly, we grant one more opportunity to the petitioner to deposit, in terms of letter dated 10th February, 1999, the sum of Rs. 37,91,152/- within thirty days from today, failing which the respondents will be free to take whatever further action they propose to take in accordance with law. There shall, however, be no order as to costs.