# Mr.Abdul Rahim vs The Principal Commissioner Of Income

**ID:** F2J-C-2293 **Court:** Madras High Court
**Case:** W.P.Nos.14965 of 2022 **Date:** 2025-06-20



[Cites 3, Cited by 0]

Madras High Court Mr.Abdul Rahim vs The Principal Commissioner Of Income ... on 20 June, 2025 Author: Krishnan Ramasamy Bench: Krishnan Ramasamy W.P.Nos.14965 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2025

CORAM

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.Nos.14965 & 14967 of 2022 and W.M.P.No.14186 & 14190 of 2022

Mr.Abdul Rahim PAN: ADLPA5451B ... Petitioner

Vs.

1. The Principal Commissioner of Income Tax (Central), Chennai – 1 No.46, Mahatma Gandhi Road Nungambakkam, Chennai – 600 034.

2. The Deputy Commissioner of Income Tax Central Circle – 1(4) No.46, Mahatma Gandhi Road Nungambakkam, Chennai – 600 034. ... Respondents

Prayer in W.P.No.14965 of 2022: Writ Petition is filed under Article 226

of the Constitution of India, calling for the records of the 1st respondent

in PAN: ADLPA5451B and quash the impugned order dated 25.02.2022

passed u/s. 273AA of the Act in ITBA/COM/F/17/2021-

1/10

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W.P.Nos.14965 of 2022

22/1040118322(1) for the A.Y.2013 – 14 as illegal, without jurisdiction

and consequently direct the 1st respondent to permit withdrawal of the

petition dated 04.02.2021 filed u/s. 273AA of the Act.

Prayer in W.P.No.14967 of 2022: Writ Petition is filed under Article 226

of the Constitution of India, calling for the records of the 1st respondent

in PAN: ADLPA5451B and quash the impugned order dated 25.02.2022

passed u/s. 273AA of the Act in ITBA/COM/F/17/2021-

22/1040118700(1) for the A.Y.2015 – 16 as illegal, without jurisdiction

and consequently direct the 1st respondent to permit withdrawal of the

petition dated 04.02.2021 filed u/s. 273AA of the Act.

For Petitioner : M/s.Vandana Vyas

For Respondents : Mr.A.P.Srinivas Senior Standing Counsel Asst. by Mr.A.N.R.Jayaprathap Junior Standing Counsel

COMMON ORDER

The present writ petitions have been filed challenging the impugned orders dated 25.02.2022 passed by the 1st respondent for the 2/10 https://www.mhc.tn.gov.in/judis ( Uploaded on: 10/07/2025 07:51:39 pm ) W.P.Nos.14965 of 2022 Assessment Years 2013-14 & 2015-16, and for a direction to the 1st respondent to permit the petitioner for withdrawal of the petition dated 04.02.2021 filed under Section 273AA of the Act.

2. It is submitted by the learned counsel for the petitioner that, in the present cases, returns were filed by the petitioner for the assessment years 2013-14 and 2015-16 in response to the notices issued under Section 153A. It is submitted that, the petitioner filed a settlement application before the Income Tax Settlement Commission. The said application was rejected on the ground that, the petitioner had not made a true and full disclosure of his income, and therefore, assessment proceedings were initiated under Section 153A. It is further submitted that, as against the assessment proceedings, the petitioner preferred an appeal before the Commissioner of Income Tax (Appeals), Chennai and the same is pending as on date and has not attained finality. In the meanwhile, the petitioner filed an application under Section 273AA, before the Principal Commissioner of Income Tax, Central-Chennai, for grant of immunity from penalty. It was stated before the settlement commission that, the petitioner had made a full and true disclosure of his 3/10 https://www.mhc.tn.gov.in/judis ( Uploaded on: 10/07/2025 07:51:39 pm ) W.P.Nos.14965 of 2022 income. However, without

considering the same, the Principal Commissioner rejected his application for waiver, by the impugned order dated 25.02.2022. Aggrieved by the said order, the petitioner has filed these writ petitions.

3. It is submitted by the Learned Senior Standing Counsel appearing for the respondents that, in the present cases, the question of waiver would not arise, since the petitioner did not make a full and true disclosure of his income before the authorities. It is further submitted that, the penalty under Section 273AA was initiated due to non- furnishing of tax audit report within the specified period. It is also submitted that, the waiver application was rejected only taking into consideration the fact that, the petitioner did not disclose his income in true and full, and therefore, these writ petitions have no merit. Hence, Learned Senior Standing Counsel prayed to dismiss these writ petitions.

4. I have given due consideration to the submission made on either side and perused the materials on record. 4/10 https://www.mhc.tn.gov.in/judis ( Uploaded on: 10/07/2025 07:51:39 pm ) W.P.Nos.14965 of 2022

5. In the present case, the petitioner filed an application for waiver under Section 273AA of the Income Tax Act, 1961.

6. Section 273AA of the Income Tax Act, 1961 reads as follows:

“(1) A person may make an application to the Principal Commissioner or Commissioner for granting immunity from penalty, if—

(a) he has made an application for settlement under section-

245C and the proceedings for settlement have abated under section-245HA; and (b) the penalty proceedings have been initiated under this Act. (2) The application to the Principal Commissioner or Commissioner under sub-section (1) shall not be made after the imposition of penalty after abatement. (3) The Principal Commissioner or Commissioner may, subject to such conditions as he may think fit to impose, grant to the person immunity from the imposition of any penalty under this Act, if he is satisfied that the person has, after the abatement, co-operated with the income-tax authority in the proceedings before him and has made a full and true 5/10 https://www.mhc.tn.gov.in/judis ( Uploaded on: 10/07/2025 07:51:39 pm ) W.P.Nos.14965 of 2022 disclosure of his income and the manner in which such income has been derived. (3A) The order under sub-section (3), either accepting or rejecting the application in full or in part, shall be passed within a period of twelve months from the end of the month in which the application under the said sub-section is received by the Principal Commissioner or the Commissioner:

Provided that no order rejecting the application, either in full or in part, shall be passed unless the assessee has been given an opportunity of being heard:

Provided further that where any application is pending as on the 1st day of June, 2016, the order shall be passed on or before the 31st day of May, 2017.

(4) The immunity granted to a person under sub-section (3) shall stand withdrawn, if such person fails to comply with any condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(5) The immunity granted to a person under sub-section (3) may, at any time, be withdrawn by the Principal Commissioner or Commissioner, if he is satisfied that such person had, in the course of any proceedings, after abatement, 6/10 https://www.mhc.tn.gov.in/judis ( Uploaded on: 10/07/2025 07:51:39 pm ) W.P.Nos.14965 of 2022 concealed any particulars material to the assessment from the income-tax authority or had given false evidence, and thereupon such person shall become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.”

7. A perusal of the above provision would show that, the assessee can file an application for granting immunity from penalty before the Principal Commissioner or Commissioner, in the event, the application filed by the assessee for settlement before the Income Tax Settlement Commission was abated or rejected. The Principal Commissioner or Commissioner, who dispose of such application, should have satisfied prima facie that, there was a full and true disclosure of income before the Income Tax Officer while making the assessment.

8. In the present case, notice under Section 153A was issued and the petitioner disclosed the fact before the Settlement Commission to the extent they have admitted. However, the Settlement Commission came to the conclusion that, the petitioner had not made a full and true disclosure of his income and thereby, rejected the application. As against the order of rejection of application, the petitioner preferred an appeal before the 7/10 https://www.mhc.tn.gov.in/judis ( Uploaded on: 10/07/2025 07:51:39 pm ) W.P.Nos.14965 of 2022 Commissioner of Income Tax (Appeals), Chennai. When the appeal was pending, the petitioner filed an application before the Principal Commissioner / 1st respondent herein for grant of immunity from penalty. If the Principal Commissioner had satisfied that, there was a full and true of income before the Settlement Commission, he would have modified the order of commission or reduced the quantum of penalty. However, it appears that, even the Principal Commissioner has arrived at the conclusion that, the petitioner had not made a full and true disclosure of income before the Settlement Commission.

9. In view of the above, this Court does not find any merit in these petitions and therefore, these Writ Petitions stand dismissed. Consequently, connected miscellaneous petitions are closed. No costs. 20.06.2025 raja Index : yes/no Internet : yes/no Speaking Order / Non-Speaking Order To 8/10 https://www.mhc.tn.gov.in/judis ( Uploaded on: 10/07/2025 07:51:39 pm ) W.P.Nos.14965 of 2022

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KRISHNAN RAMASAMY, J. 9/10 https://www.mhc.tn.gov.in/judis ( Uploaded on: 10/07/2025 07:51:39 pm ) W.P.Nos.14965 of 2022 raja W.P.Nos.14965 & 14967 of 2022 20.06.2025 10/10 https://www.mhc.tn.gov.in/judis ( Uploaded on: 10/07/2025 07:51:39 pm )