THE HON'BLE SRI JUSTICE DILIP B.BHOSALE
AND
THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.12453 of 2004

ORDER: (per the Hon'ble Sri Justice A.Ramalingeswara Rao)

Heard learned counsel for the petitioner and learned Standing Counsel for respondents.

2. This Writ Petition was filed seeking a direction to the first respondent to give direction to the Assessing Officer for allowing credit of Tax Deduction at Source (TDS) amount of Rs.73,488/-.

3. The petitioner is a private limited company and an assessee on the file of the Deputy Commissioner of Income Tax, Special Range-3, Hyderabad. The petitioner filed its return of income for the assessment year 1997-98 and the same was processed under Section 143(1)(a) of the Income Tax Act, 1961 (for short, the Act) on 30.09.1999, determining the total loss at Rs.1,54,02,471/-. In the said return, the petitioner claimed credit for TDS at Rs.10,83,599/- and an amount of Rs.9,15,319/- was allowed. Thereafter, the petitioner filed a petition on 20.02.2001 requesting for rectification of the intimation under Section 154 of the Act. The said petition was filed in respect of 4 TDS certificates totalling to an amount of Rs.73,488/-. The said petition was rejected by the Assessing Officer, by order dated 17.10.2001. Against the said order, a petition was filed before the first respondent under Section 264 of the Act on 30.09.2002 seeking revision in respect of the TDS amount of Rs.73,488/-. The said petition was dismissed by the first respondent, by order dated 28.02.2003, against which the present Writ Petition was filed.

4. The learned counsel for the petitioner contended that though the petitioner deserved an amount of Rs.1,68,280/- towards TDS credit, it asked for rectification only in respect of Rs.73,488/- based on TDS certificates available and hence the first respondent should have allowed the petition.

5. The first respondent heard the assessee, who contended that the certificates were received after filing of the return and consequently the amount could not be claimed in the return. The assessee also filed ledger extracts of the three parties in support of its contention. The first respondent verified the correctness of the assessee's contention. The first respondent noted that the ledger extract of "interest on ICDs Account" was never furnished with the return and only a composite amount of Rs.8,02,742/- was indicated as interest in Schedule 11 to the final accounts. The result of verification of each of the three accounts was indicated in the order and it was pointed out that the interest claimed to have been accounted as income does not match with the corresponding gross interest indicated in the statement of TDS filed with the return and the TDS certificates credit in respect of which the revision was sought under Section 264 of the Act. The first respondent observed that there were no discrepancies in respect of principal amount lent, rate of interest and the period for which the interest is chargeable. He opined that it is not understandable as to how the gross amount of interest indicated in the statement of TDS and TDS certificates on one hand and the gross amount of interest claimed to have been accounted on the other could vary.

6. The first respondent in his order also observed that though the assessee was asked to furnish copies of the assessee's accounts as appearing in the books of accounts of the above mentioned parties so as to reconcile the discrepancies and to verify the correctness of the claim,

no documents were produced. It was specifically noted that despite repeated opportunities, the assessee could not reconcile the discrepancies and could not substantiate that the interest corresponding to the four TDS certificates filed for grant of credit later was indeed accounted for as its income for the previous year relevant to the assessment year 1997-98. Accordingly, the first respondent declined to interfere with the order passed by the Assessing Officer on 17.10.2001.

7. We have also carefully gone through the order passed by the first respondent and the submissions made by the learned counsel for the petitioner. Even before this Court, the learned counsel for the petitioner did not file any evidence to show that there was no discrepancy with regard to the income accounted and the amount found in the TDS certificates. The first respondent has passed a reasoned order after thoroughly going into the facts of the case and verifying the records.

7. In the circumstances, we do not see any reason to issue a Writ of Mandamus as sought for. The Writ Petition is liable to be dismissed and is accordingly dismissed. Miscellaneous petitions pending, if any, stand disposed of. There shall be no order as to costs.

DILIP B.BHOSALE, J

A.RAMALINGESWARA RAO,J

Date: 22.01.2015
TJMR