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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 05.03.2015

\+ **W.P.(C) 1741/2015 & CM No.3112/2015**

SUNWORLD INFRASTRUCTURE PVT. LTD. .... Petitioner

versus

ITO WARD 24 (3), NEW DELHI ..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr Amol Sinha, Mr Manoj Dhir and Ms Isha Gupta, Advocates.

For the Respondents : Ms Suruchi Aggarwal, Senior Standing Counsel.

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. The writ petition is directed against the notice dated 24.12.2014 under Section 143(2) of the Income Tax Act, 1961 (hereinafter referred to as ' the said Act') issued by the Income Tax Officer, Ward-24(3), New Delhi in respect of Assessment Year 2012-13 on the ground that the same is time barred.

2. The petitioner filed its return on 14.9.2012. The end of the Financial Year would be 31.3.2013. Six months therefrom would end on 30.09.2013. In other words, the notice under Section 143(2) could have been issued on or before 30.09.2013.

3. The learned counsel for the respondent submitted that the impugned notice was not time-barred inasmuch as it was in continuation of an earlier notice under Section 143(2) issued by the Income Tax Officer, Ward-12(2), Bangalore on 10.09.2013. But, in our view, this does not save the impugned notice under Section 143(2). The reason for this is that the purported notice dated 10.09.2013 issued under Section 143(2) by the Assessing Officer at Bangalore was without jurisdiction inasmuch as the Assessing Officer at New Delhi had jurisdiction over the case. This fact was immediately pointed out by the assessee/petitioner by virtue of its letter dated 17.09.2013 where it had clearly indicated that it was regularly filing returns in Delhi and that the jurisdiction of the case was in Delhi. On this basis, it was requested that the said notice issued by the Bangalore office be withdrawn. Thereafter, the Income Tax Officer, Ward-6(1) (1), Bangalore wrote to the Income Tax Officer, Ward-24(3), New Delhi on the subject of transfer of scrutiny assessment records in the case of the petitioner. The said letter reads as under:-

"OFFICE OF THE INCOME TAX OFFICER
WARD-691)(1), No.14/3, 4th Floor, Rastrothana Bhavan (Opp. RBI)
Nrupatunga Road, Bangalore-560 001

F.No.TRF/ITO-W-6(1)(1)/2014-15 Dated: 16/12/2014

To

Income Tax Officer,
Company Ward-2493),
Central Revenue Building,
IP Estate,
New Delhi-110002

Madam/sir,

Sub: Transfer of scrutiny assessment records in the case of M/s Sunworld Infrastructure Pvt. Ltd-reg.

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The above mentioned case was selected for scrutiny under CASS for A.Y. 2012-13 & 2013-14 notices u/s. 143(2) was issued at the address available as per PAN data. On verification it is noticed that the jurisdiction of the vests with your office. Accordingly, case record is transferred herewith for necessary action at your end.

Yours faithfully,

(LOKESHA)
Income-tax Officer,
Ward-6(1)(1), Bangalore"

4. It is evident from the aforesaid letter that it is only the records of the case which were transferred and if the case itself had been transferred, the same would have to be directed under Section 127 of the said Act. No such order of transfer has been made and the above letter dated 16.12.2014 is indicative of the fact that the Bangalore Office of the Income Tax Department did not have jurisdiction in this case.

5. That being the position, the purported notice under Section 143(2) issued on 10.09.2013 was one without jurisdiction and cannot be regarded as a valid notice. The first notice, therefore, which was issued by an Officer having jurisdiction was on 24.12.2014. This was issued clearly beyond the period of limitation which has been prescribed, i.e., beyond 30.09.2013 in this case. As such, the impugned notice dated 24.12.2014 issued under Section 143(2) of the said Act is barred by time. The same is quashed.

The writ petition is allowed as above. No orders as to costs.

BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J

MARCH 05, 2015
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