IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 11.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.28100 of 2016

Anandram Developers Pvt. Ltd.
Rep. by its Director, Mr. Mukundan Vijayan,
Having Office at : No.47 Arcot Road,
Saligramam, Chennai 600 093. .. Petitioner

Versus

Income Tax Officer,
Company Ward - 1(1),
Aayakar Bhavan,
Nungambakkam High Road,
Chennai 600 034. .. Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus to consider the petitioner's request for a rectification of the assessment order, dated 17.11.2011, passed by the Respondent, under Section 154 of the Income Tax Act, 1961, and to consequently also grant such refunds as are due to the Petitioner along with interest under Section 244A of the Income Tax Act, 1961.

For Petitioner : Mr. Suhrith Parthasarathy
For Respondent : Mr. T.Ravikumar

O R D E R

Heard Mr.Suhrith Parthasarathy, learned counsel appearing for the petitioner and Mr. T.Ravikumar, learned counsel appearing for the respondent. By consent of the learned counsel for both sides, the writ petition is taken up for final disposal, at the admission stage itself.

2. At the first blush, the prayer sought for in the writ petition appears to be innocuous. But, however, the consequential relief sought for by the petitioner, seeking for a positive direction to grant refund is stoutly opposed by the learned standing counsel for the respondent / department. The assessment for the year 2009-10 was completed and an order was passed on 17.11.2011, along with the notice of demand, under Section 156 of the Income Tax Act, 1961. The Petitioner, if aggrieved by the order of assessment, was at liberty to file an appeal before the Commissioner of Income Tax, and the period of limitation is 30 days which would have expired during the third week of December 2011. However, the petitioner thought it fit, not to exercise such an option, but choose to file a petition under Section 154 of the Act, on 19.01.2012. This petition is said to be pending on the file of the respondent and the petitioner seeks for a direction upon the respondent to consider the request for rectification. Since with regard to the consequential relief sought for, this court pointed out that if the petitioner seeks for any positive direction as a consequence to their request for rectification, then the respondent / Department should be granted sufficient time to file their counted affidavit.

3. Faced with such a situation, the learned counsel for the petitioner submits that the petitioner will restrict their relief sought for in the writ petition only with regard to the first limb of the prayer, wherein they have made a request for the consideration of the petition for rectification.

4. The learned standing Senior Counsel appearing for the respondent submits that if such is the submission made on behalf of the petitioner, then the court may direct the respondent to consider the petition in accordance with law.

5. In the light of the above discussion, the writ petition stands disposed of, with the direction to the first respondent to consider the petition for rectification, dated 17.11.2011, and pass orders on merits and in accordance with law within a period of 6 weeks from the date of receipt of a copy of this order. No Costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

SRK / PVS

To

Income Tax Officer,
Company Ward - 1(1),
Aayakar Bhavan,
Nungambakkam High Road,
Chennai 600 034.

+1 cc to M/s.Arun Karthik Mohan Advocate sr 46074
+1 cc to Mr.T.Ravikumar Advocate senior standing counsel for Income-Tax Department sr 45841

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