IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.08.2017
Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.17280 of 2017

M/s. Hyundai Motor India Limited.,
Plot No. H1, SIPCOT Industrial Park,
Irrungattukottai, Sriperumbudur Taluk,
Kancheepuram District,
Tamil Nadu - 602 117.
rep. by its Director Mr. Sundol Lim. ...Petitioner

Vs.

1. The Dispute Resolution Panel -2,
7th Floor, Income Tax Office,
BMTC Building, 80 Feet Road,
Koramangala, Bangalore - 580 095.

2. The Deputy Commissioner of Income Tax (LTU)
Jawaharlal Nehru, Inner Ring Road,
Anna Nagar, West Extension,
Chennai - 600 101.

3. The Commissioner of Income Tax (LTU)
Jawaharlal Nehru, Inner Ring Road,
Anna Nagar, West Extension,
Chennai - 600 101. ...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records to quash the entire assessment proceedings, including the response of the second respondent, vide letter F. No.AAACH2364M/AY/2006-07, dated 29.09.2016, and consequently, to direct the second respondent to refund the tax demand of Rs.31,05,18,484/- along with interest as applicable under Section 244-A of the Income Tax Act.

For Petitioner : Mr. SP. Chidambaram

For Respondents : Mrs. Hema Murali Krishnan
Standing Counsel.

ORDER

Heard Mr. SP. Chidambaram, the learned counsel appearing for the petitioner and Mrs. Hema Murali Krishnan, the learned Standing Counsel for the respondents.

2. The petitioner has filed this Writ Petition, praying for issuance of a Writ of Certiorarified Mandamus, to quash the entire assessment proceedings, including the response of the second respondent, dated 29.09.2016, and consequently, to direct the second respondent to refund the tax demand of Rs.31,05,18,484/- along with interest as applicable under Section 244-A of the Income Tax Act, 1961.

3. When this Writ Petition came up for admission before this Court on 07.07.2017, I heard the learned Senior Counsel for the petitioner and recorded his submissions and based on the same, directed the learned Standing Counsel for the respondents to take notice and get instructions in the matter. The said order reads as follows:-

> " Heard Mr. Venkataraman, the learned Senior Counsel for Mr.SP. Chidambaram, the learned counsel for the petitioner.
>
> 2. The learned Senior Counsel submitted that though the petitioner has sought for quashing the assessment proceedings, including the response of the second respondent, dated 29.09.2016 the petitioner/assessee would be satisfied if the Dispute Resolution Panel, the first respondent is directed to conclude the proceedings within a stipulated time. It is submitted by the learned Senior Counsel that Income Tax Appellate Tribunal, in its order, dated 24.02.2012, restored all the issues, which were raised before the Tribunal to the file of the first respondent with a direction t grant the petitioner/assesee adequate opportunity to rectify the application filed before it, as the assessee itself has agreed to have the application signed by the persons mentioned in Section 140 of the Income Tax Act. Therefore, iti s submitted that the

matter having been remanded to the first respondent by the Tribunal, the first respondent may be directed to take up the matter and conclude the proceedings within a time frame.

3. Mrs. Hema Murali Krishnan, the learned Senior Standing Counsel accepts for the respondents, and seeks time to get instructions in the matter.

List on 21.07.2017. "

4. As per the direction issued on 07.07.2017, the matter was listed on 21.07.2017, and on the said date, the learned Standing Counsel for the respondents submitted that Dispute Resolution Panel (D.R.P.) does not have the Corum, and it has only one member, and two other members are yet to be appointed/nominated. Therefore, the learned Standing Counsel requested for some more time to get instructions in the matter, and the matter was directed to be listed on 18.08.2017 (today).

5. Today, when the matter is taken up for hearing, the learned Standing Counsel for the respondents submitted that D.R.P. has sufficient corum and they are of the opinion that the order of remand could not have been passed. However, this issue is for D.R.P. to deal with and not for this

Court to adjudicate upon at this juncture in the light of the submissions made by the learned counsel for the petitioner. A feeble attempt has been made by the learned Senior Counsel for the petitioner to state that arguments are to be advanced on merits of the matter. This would be impermissible in the light of the fact that this Court has already recorded as to what would be the scope of the direction to be issued in this Writ Petition while hearing the case on 07.07.2017.

6. Faced with this situation, Mr. SP. Chidambaram, the learned counsel for the petitioner has submitted that a time frame may be fixed, within which, the D.R.P. will dispose of the matter, as the issue is pending since 2013.

7. In the light of the above, there will be a direction to the first respondent/D.R.P. to finally decide the petitioner's application, in F.No.DRP/Chennai/Sectt./016/2010-11, filed before them, dated 28.09.2010, and pass appropriate orders on merits and in accordance with law, as expeditiously as possible, preferably, within a period of twelve weeks from the date of receipt of a copy of this order. It is made clear that, it is open to

the petitioner to raise all contentions, both on fact as well as in law before D.R.P.

8. The Writ Petition is disposed of accordingly. No costs.

18.08.2017

sd/mrr
Index : yes/no

To

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T.S.Sivagnanam, J.

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