IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2017

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.13612 of 2009 and
M.P.No.1 of 2009

Rohini Holdings Private Limited,
New No.137, (Old No.67), Chamiers Road,
Chennai - 600 028
Represented by its Director,
Mr.R.Chandramouli ... Petitioner

Vs.

1.The Commissioner of Income-tax-III,
Company Circle V(4),
121, Mahatma Gandhi Road,
Chennai - 600 034.

2.The Assistant Commissioner of Income-tax,
Company Circle V(4),
121, Mahatma Gandhi Road,
Chennai - 600 034. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the impugned order in C.No.3032/8/III/2006-07 dated 28.02.2008 passed by the first respondent herein and quash the same and further directing the second respondent to exclude doubly taxed income in the hands of the petitioner.

For Petitioner : Mr.V.S.Jayakumar

For Respondents : Mr.Navin Durai Babu

ORDER

Heard Mr.V.S.Jayakumar, learned counsel for the petitioner and Mr.Navin Durai Babu, learned Junior Counsel for the respondents.

2.The petitioner has filed this writ petition challenging the order passed by the 1st respondent under Section 264 of the Income Tax Act, 1961. The said petition was filed contending that during the course of assessment proceedings, the Assessing Officer observed that since the petitioner was still contesting the additions in the earlier years, they cannot delete those incomes in the assessment years 2003-2004 and counter this argument, the petitioner filed a petition under Section 154 to rectify the assessment by deleting these amounts with an assurance that in case, they succeed in the Tax Case Appeal pending before this Court for the year 2000-2001, the petitioner will not have any objection at all in subsequent revision of assessment for the year 2003-2004 by adding those incomes in the said assessment year. In spite of such a stand taken before the Assessing Officer, he has rejected the petitioner's application for rectification against which the revision petition was filed before the 1st respondent under Section 264 of the Act. The said revision petition was dismissed by the impugned order. It may not be necessary for this Court to test the correctness of the impugned proceedings on account of the subsequent development, which took place during the pendency of the writ petition.

3.As noticed earlier, the petitioner had filed Tax Case (Appeal) Nos.1074 of 2004, 1184 of 2008 and 502 and 704 of 2009 before the Division Bench. In so far as the relevant assessment year is concerned, viz., 2003-2004, the Appeal in T.C.No.704 of 2009, the Hon'ble Division Bench, by common Judgment dated 16.08.2011 [reported in (2012) 345 ITR 0446 (Rohini Holdings (P) Ltd., V. Commissioner of Income Tax)], allowed the said appeal and the operative portion of the Judgment reads as follows:

> "28.In the light of the abovesaid fact, the Tribunal's order as regards the assessment for the asst. yr. 2003-04 in respect of the appeal in Tax Case No.704 of 2009 is set aside and the same is allowed in part, with a direction to the AO to redo the same, taking note that the interest income at Rs. 52.50 lakhs has to be assessed under each of the assessment year starting from 2000-01 onwards."

4.Thus, the Assessing Officer has to implement the Judgment rendered in T.C.(A).No.704 of 2009 and the impugned order in this writ petition will not come in the way of the Assessing Officer implementing the direction issued by the Division Bench. Thus, the challenge to the impugned proceedings has become academic and it would suffice to make an observation that notwithstanding the impugned proceedings passed by the 1st respondent, the Assessing Officer shall implement the Judgment passed by the Division Bench as noted above.

5.With the above observation, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-)

//True Copy//

Sub Assistant Registrar

Sgl
To

1.The Deputy Commissioner (CT)
(Designated Authority),
Coimbatore.

2.The Commercial Tax Officer,
Tirupur South, Tirupur.

+1cc to Mr.V.S.Jayakumar Advocate, S.R.No. 78889

+1cc to Mr.Hemamurali krishnan Advocate, S.R.No. 78858

W.P.No.13612 of 2009

TR(30/11/2017)