IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 17.07.2017
CORAM
The Hon'ble Mr.Justice T.S.Sivagnanam

W.P.Nos.31200 & 31201 of 2004

High Energy Batteries (India) Ltd.,
Esvin House, Perungudi,
Chennai-600 096
Rep.by its Executive Director S.Sridharan.
.. Petitioner in both W.Ps

Vs

The Deputy Commissioner of Income -Tax,
Company Circle II (2),
Chennai-34.
...Respondent in both W.Ps.

Prayer in W.P.No.31200 of 2004 :

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari, to call for the records in HX/1001/1996-97, dated 20.10.2004 as amended by the order in HX/1001/1996-97, dated 21.10.2004.

Prayer in W.P.No.31201 of 2004 :

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus, forbearing the Respondent from making a reassessment in respect of the Assessment year 1996-97 pursuant to the Notice under Section 148 of the Income Tax Act in PAN.HX 1001/96-97 dated 07.03.2003.

For Petitioner : M/s.Susmaharini

For Respondent : M/s.Hema Murali Krishnan
Senior Standing Counsel

COMMON ORDER

Heard M/s. Susmaharini, the learned counsel appearing for the petitioner and M/s.Hema Murali Krishnan, learned Senior Standing Counsel for the respondent.

2. The petitioner in these Writ Petitions, seeks two reliefs, viz., i) To quash the notice issued under Section 148 of the Income Tax Act, 1961, for the assessment year 1996-97, dated 20.10.2004 and ii) To forbear the respondent from proceeding with reassessment proceedings in the said order.

3. When the Writ Petitions were admitted on 28.10.2004, interim order was granted, stating that the assessment proceedings, which were kept in abeyance may go on, however, the assessment shall not be given effect to, until further orders passed by the Court, and the said interim order was made absolute on 14.03.2009. During the pendency of the Writ Petitions, assessment has been completed, and order, dated 04.11.2004, has been passed by the Assessing Officer, which is favourable to the assessee, however, in the penultimate para of the order, the Assessing Officer, in

obedience to the direction issued by the Court, has stated that the order passed by him will not given effect to, until further orders.

4. In the light of the subsequent development, and the Assessing Officer, having held vide his order, dated 04.11.2004, that on examination of facts, no sustainable additions could be made to the income of the assessee and the loss determined as per the order, dated 10.01.2003, giving effect to the ITAT's Order is restored, and the tax thereon is Nil, these Writ Petitions are disposed of, with a direction to the Assessing Officer to give effect to his order, dated 04.11.2004. No costs.

17.07.2017

Index : Yes/No
sd/klt

To

The Deputy Commissioner of Income -Tax,
Company Circle II(2),
Chennai-34.

T.S.Sivagnanam. J.,

sd/klt

W.P.Nos.31200 & 31201 of 2004

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