

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE T.RAJANI**

W.P.M.P.No.84 of 2011 In/And Writ Petition No.25119 of 2002

&

W.P.M.P.No.88 of 2011 In/And Writ Petition No.25127 of 2002

COMMON ORDER: (Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan)

In W.P.Nos.25119 and 25127 of 2002, filed in the year 2002 questioning the provisional assessment order, the petitioner, by way of petitions in W.P.M.P.Nos.84 and 88 of 2011 respectively, sought amendment, of the prayer in these Writ Petitions, in the year 2011, to include a challenge to validity of the final assessment order passed in the year 2004. The final assessment order gives rise to a distinct cause of action, and could not have been subjected to challenge by way of amendment petitions, that too in the writ petitions filed in the year 2002 wherein the validity of the provisional assessment order was questioned.

Sri S.Dwarakanath, learned counsel for the petitioner, would submit that, if the applications seeking amendment had been rejected in the year 2011 itself, the petitioner would have questioned the final assessment order soon thereafter.

While this submission of the learned counsel may justify his being granted liberty to file a fresh writ petition, and for this Court to consider entertaining the writ petition despite the delay of 6 years between 2011 and 2017, the question whether the writ petition should be entertained after a period of seven years (from the year 2004 when the final assessment order was passed till the year 2011 when the amendment petitions were filed) would necessitate examination.

Suffice it if liberty is granted to the petitioner to question the final assessment order in appropriate legal proceedings, making it clear that this Court has not expressed any opinion on whether or not the delay in questioning the final assessment order passed in the year 2004, for more

than seven years thereafter till the year 2011, would justify the Writ Petitions, if any filed afresh, being entertained. As a final assessment order has been passed, it is evident that the cause in the writ petitions, wherein the challenge is only to a provisional assessment order, does not survive necessitating adjudication, and both the writ petitions have become infructuous.

The Writ Petitions are, accordingly, dismissed as infructuous. Consequently, W.P.M.P.No.84 of 2011 in W.P.No.25119 of 2002 and W.P.M.P.No.88 of 2011 in W.P.No.25127 of 2002 are also dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(T.RAJANI, J)

27th July, 2017
JSU



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Date: 27.07.2017

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