IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.1248 of 2018
and
W.M.P.No.1558 of 2018

M/s.Hitachi Power Europe GmBH
Project Office Chennai
Represented by its Authorised Signatory
Mr.Pravesh P Jain
Amara MLS Business Centre, 6th Floor Acropolis
No.148, Room No.601 A & B, 616, 617, 618
Dr.Radhakrishnan Salai, Mylapore,
Chennai-600 004. ... Petitioner

Vs.

The Deputy Commissioner of Income Tax
International Taxation - 2(1)
4th Floor, Tower-I, BSNL Building
No.16, Greams Road, Chennai-600 006. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a WRIT OF CERTIORARIFIED MANDAMUS, calling for the records comprised in the impugned order in AACCH4870N and December 31, 2017 made under Section 144C(1) of the Income Tax Act, 1961 for the assessment year 2015-2016 on the file of the respondent, quash the same and consequently, direct the respondent to pass orders after giving reasonable opportunity of personal hearing to the petitioner.

For Petitioner : Mr.S.K.Magesh
For Respondent : Mr.Karthik Ranganathan
standing counsel

O R D E R

Heard both sides.

2. The petitioner is aggrieved against the draft assessment order dated 31.12.2017 passed under Section 144C(1) of the Income Tax Act, 1961 for the assessment year 2015-2016.

3. This Court has entertained the writ petition and granted an interim order of stay on 22.01.2018. Thereafter, the matter was adjourned on several occasions and finally posted today for disposal.

4. Though this writ petition is filed by raising very many contentions on merits of the draft assessment order, the learned counsel for the petitioner fairly submitted that in view of the provisions made under Section 144C(2) of the Income Tax Act, 1961, the petitioner may be given liberty to agitate the matter before the Dispute Resolution Panel and also the Assessing Officer.

5. A counter affidavit is filed by the respondent, traversing on the merits of the matter, over which, this Court is not inclined to express any view, as the learned counsel for the petitioner seeks liberty to agitate the matter before the Dispute Resolution Panel.

6. Mr.Karthik Ranganathan, learned standing counsel for the respondent submitted that even to go before the Dispute Resolution Panel, the petitioner has to move such petition within a period of 30 days from the date of the draft assessment order and therefore, the Dispute Resolution Panel will not be in a position to entertain the petition.

7. There is no dispute to the fact that the draft assessment order was passed by the respondent on 31.12.2017 and the present writ petition was filed by the petitioner on 17.01.2018, which is admittedly, within 30 days period stipulated for filing such petition before the Dispute Resolution Panel. It is also not in dispute that this Court has entertained the present writ petition and granted an interim order of stay on 22.01.2018 and the said interim order is still in force. Therefore, this Court is of the view that without expressing any view on the merits of the contentions raised by both parties, it is better for the petitioner to agitate the matter before the Dispute Resolution Panel by filing appropriate petition under Section 144C(2)(b), so that the said authority will consider the petition and pass appropriate orders on merits and in accordance with law.

8. Accordingly, this writ petition is disposed of, by granting liberty to the petitioner to file such petition before the Dispute Resolution Panel on or before 12.11.2018. If any such petition is filed within the time stipulated supra, the Dispute Resolution Panel shall consider the same and pass appropriate orders on merits and in accordance with law without reference to the period of limitation, in view of the fact that this writ petition is pending before this Court all these days with interim order. No costs. Connected miscellaneous petition is closed.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

mk

To

The Deputy Commissioner of Income Tax
International Taxation - 2(1)
4th Floor, Tower-I, BSNL Building
No.16, Greams Road, Chennai-600 006.

+ 1 cc to Mr. K. Magesh, Advocate sr.74726

W.P.No.1248 of 2018

(CS-DR)
EU(01/11/2018)