THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE P.KESHAVA RAO

WRIT PETITION NO.33669 of 2017

ORDER: (per SK,J)

The prayer of the petitioner company in this case reads as under:

> It is prayed that this Hon'ble Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 1st respondent in issuing Impugned Notice dated 27.10.2016 Bearing Reference No. ITBA/AST/S/148/2016-17/1000440812(1) and letter dated 27.09.2017 Bearing Reference No. DCIT-1(2) PAN-AAACB9723G/2017-18 under Sections 147 and 148 of the Income Tax Act. 1961 and consequential Notice dated 27.09.2017 bearing Reference No.F.No.DCIT-1(2) PAN-AAACB9723G/2017-18 under Section 143(2) of the Income Tax Act. 1961 (collectively referred to as the 'impugned notice') for reopening assessment for the Assessment Year 2010-11, as being illegal, arbitrary and contrary to the provisions of Sections 10B, 147, 148 of the Income Tax Act. 1961, contrary to the CBDT Circular No.1/2005 dated 06.01.2005, CBDT Circular No.1/2013 dated 17.01.2013 and violative of Articles 14 and 265 of Constitution of India and consequently set aside the Impugned Notice dated 27.10.2016 bearing Reference No.ITBA/AST/S/148/2016-17/1000440812(1) and letter dated 27.09.2017 hearing Reference No. DCIT-1(2) PAN-AAACB9723G/2017-18 under Sections 147 and 148 of the Income Tax Act, 1961 and consequential Notice dated 27.09.2017 bearing Reference No. F.No.DCIT-1(2) PAN-AAACB9723G/2017-18 under Section 143(2) of the Income Tax Act. 1961 (collectively referred to as the 'impugned notice') issued by the 1st respondent to the Petitioner and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.'

Ms.M.Kiranmayee, learned counsel representing Mr.K.Raji Reddy, learned senior standing counsel for the Revenue, would inform this Court that after issuance of the impugned show cause notice dated 27.10.2016, the Deputy Commissioner of Income Tax, Circle-1(2), Hyderabad, passed final assessment order dated 29.12.2017. She would therefore submit that challenge to the show cause notice does not independently survive for consideration on merits.

Mr.R.Raghunandan, learned senior counsel appearing for Mr.D.Narendar Naik, learned counsel for the petitioner company, would concede that the final assessment order has already been passed. He would submit that all issues, including the issue of jurisdiction, may be left open to be raised by the petitioner company in its proposed challenge to the final assessment order dated 29.12.2017.

Accepting this submission, the writ petition is dismissed leaving all issues, including the issue of jurisdiction, open.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR,J

P.KESHAVA RAO,J

Date:23.01.2018

GJ