IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23-01-2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.49683 of 2006
And
M.P.No.1 of 2006

K.Srikkanth .. Petitioner

- Vs. -

1.The Commissioner of Income Tax Chennai-I,
No.121, Nungambakkam High Road,
Chennai-600 034.

2.The Income Tax Officer (OSD),
Company Circle II (4),
Chennai-600 034. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the petitioner on the file of the second respondent and quash the impugned notice dated 30.3.2006 issued in terms of Section 148 of the Income Tax Act, 1961 in PAN No.AAFPS 6375K relating to the assessment year 2001-02 served on the petitioner on 7.4.2006 and consequently direct the second respondent not to proceed further.

For Petitioner : Mr.M.Kaushik for Mr.S.Sridhar

For Respondents : Ms.Hema Murali Krishnan, Standing Counsel for Income Tax.

O R D E R

The notice issued by the second respondent under Section 148 of the Income Tax Act, 1961 dated 30.3.2006 is under challenge in the present writ petition.

2. Parties to the lis on hand admit the fact that pursuant to the interim order granted by this Court, the Assessing Officer proceeded with the assessment and passed final order of assessment. Challenging the said final order of assessment, the writ petitioner preferred an appeal before the Appellate Authority and the Appellate Authority also had disposed of the appeal. Now the issues raised on the merits by

the writ petitioner are pending before the Income Tax Appellate Tribunal, which is a Second Appeal.

3. Though the learned counsel for the writ petitioner argued various points with reference to Section 148 of the Income Tax Act, 1961, this Court is of an opinion that the present writ petition is filed at the stage when the notice under Section 148 of the Income Tax Act, 1961, was issued. Thereafter, the writ petitioner submitted explanations / objections and the Assessing Officer adjudicated the issues and passed an order. Thus, the question of considering the grounds raised with reference to the notice issued under Section 148 of the Income Tax Act, 1961, does not arise at this length of time.

4. This apart, the final assessment order passed by the Assessing Officer was taken by way of an appeal to the Appellate Authority and thereafter, to the Income Tax Appellate Tribunal and the said appeal is now pending adjudication.

5. Under these circumstances, all the grounds raised in the present writ petition as well as the additional grounds, if any, shall be raised before the Appellate Tribunal by the writ petitioner by producing documents or other materials.

6. With the above liberty, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

-s/d-
Deputy Registrar

True Copy

Sub-Assistant Registrar

Svn
To
1. The Commissioner of Income Tax Chennai-I,
   No.121, Nungambakkam High Road,
   Chennai-600 034.

2. The Income Tax Officer (OSD),
   Company Circle II (4),
   Chennai-600 034.

+1 CC to Mrs. Hema Muralikrishnan, Advocate sr 5616.

W.P.No.49683 of 2006

SP(11/02/2019)