IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2019

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

Writ Petition Nos.5666 to 5668 of 2008
and 25015 to 25020 of 2008
and
M.P.Nos.1,1 and 1 of 2008
and MP.No.1 of 2018
in WP.No.5666 to 5668 of 2008
and
WP.No.25016 of 2018

S.VENKATESH ..PETITIONER IN ALL THE PETITIONS

VS.

1. ASSISTANT COMMISSIONER OF INCOME TAX
CIRCLE V, 121, NUNGAMBAKKAM HIGH ROAD,
CHENNAI - 600 034.

2. COMMISSIONER OF INCOME TAX,
6TH FLOOR, ANNEX BUILDING,
121, NUNGAMBAKKAM HIGH ROAD,
NUNGAMBAKKAM,
CHENNAI -600 034. ..RESPONDENTS IN WP.No.5666 of 2008

1 INCOME TAX OFFICER,
BUSINESS WARD V(4),
121 NUNGAMBAKKAM HIGH ROAD,
CHENNAI 34

2 COMMISSIONER OF INCOME TAX
6TH FLOOR ANNEX BUILDING,
121 NUNGAMBAKKAM HIGH ROAD,
CHENNAI 34 ..RESPONDENT in WP No.5667 of 2008

1 JOINT COMMISSIONER
INCOME TAX INCOME RANGE V,
NO. 121 NUNGAMBAKKAM HIGH ROAD CHENNAI 34

2 COMMISSIONER OF INCOME TAX
6TH FLOOR ANNEX BUILDING,
121 NUNGAMBAKKAM HIGH ROAD
CHENNAI 34 ..RESPONDENT in WP No.5668 of 2008

THE ASST. COMMISSIONER OF
INCOME TAX CRICLE - V ANNEX BUILDING 6TH
FLOOR NO.121 UTTAMAR GANDHI SALAI
NUNGAMBAKKAM, CHENNAI-34. ..RESPONDENT IN
WP.Nos.25015 to 25020 of 2008

Prayer in WP No.5666 of 2008 : Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari to call for the records on the files of the second respondent herein in C.NO.6502(32)/07-08/VI for assessment year 2006-07 dated 14.7.2008 and quash the same.

Prayer in WP No.5667 of 2008 : Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari to call for the records on the files of the second respondent herein in C.NO.6502(31)/07-08/VI for assessment year 2005-06 dated 14.2.2008 and quash the same.

Prayer in WP No.5668 of 2008 : Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari to call for the records on the files of the second respondent herein in C.NO.6502(33)/07-08/VI for assessment year 2004-05 dated 19.2.2008 and quash the same.

Prayer in WP No.25015 of 2008 : Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari to call for the reords on the files of the respondent herein in PAN ; AADPV 8855D dated 24.3.2008 for assessment year 2004-05 and quash the said Impugned Notice issued by the respondent by issuance of a Writ of Certiorari or any other appropriate writ.

Prayer in WP No.25016 of 2008 : Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari to call for the reords on the files of the respondent herein in PAN : AADPV 8855D dated 24.3.2008 for assessment year 2005-06 and quash the said Impugned Notice issued by the respondent by issuance of a Writ of Certiorari or any other appropriate writ.

Prayer in WP No.25017 of 2008 : Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari to call for the reords on the files of the respondent herein in PAN : AADPV 8855D dated 24.3.2008 for assessment year 2006-07 and quash the said Impugned Notice issued by the respondent by issuance of a Writ of Certiorari or any other appropriate writ.

Prayer in WP No.25018 of 2008 : Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari to call for the reords on the files of the respondent herein in PAN : AADPV 8855D dated 27.3.2008 for assessment year 2001-02 and quash the said Impugned Notice issued by the respondent by issuance of a Writ of Certiorari or any other appropriate writ.

Prayer in WP No.25019 of 2008 : Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari to call for the reords on the files of the respondent herein in PAN : AADPV 8855D dated 27.3.2008 for assessment year 2002-03 and quash the said Impugned Notice issued by the respondent by issuance of a Writ of Certiorari or any other appropriate writ.

Prayer in WP No.25020 of 2008 : Petition filed under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorari to call for the reords on the files of the respondent herein in PAN : AADPV 8855D dated 27.3.2008 for assessment year 2003-04 and quash the said Impugned Notice issued by the respondent by issuance of a Writ of Certiorari or any other appropriate writ.

For Petitioner
in the above W.Ps : Mr.R.Sivaraman

For Respondents
in the above W.Ps : Mr.Prabhu Mukundh Arunkumar
for Mrs.Hema Muralikrishnan
Sr. Standing Counsel

COMMON ORDER

Learned Standing Counsel for the Income Tax Department submits that notice under Section 148 of the Income Tax Act, 1961 (in short 'Act') has been issued for the assessment years 2004-05, 2005-06 and 2006-07 based on the same reasoning on which notice under Section 263 had been issued originally, the latter being the subject matter of W.P.Nos.5666 to 5668 of 2008. Hence, W.P.Nos.5666 to 5668 of 2008 are rendered infructuous.

2. Recording the above submission, W.P.Nos.5666 to 5668 of 2008 are dismissed as infructuous.

3. Insofar as W.P.Nos.25015 to 25020 of 2008 are concerned, the procedure set out in matters of re-assessment has been clarified by the Supreme Court in the case of Gkn Driveshafts (India) Ltd vs Income Tax Officer And Ors (259 ITR 19) as follows:

> 4. We see no justifiable reason to interfere with the order under challenge. However, we clarify that when a notice under Section 148 of the Income tax Act is issued, the proper course of action for the noticee is to file return and if he so desires, to seek reasons for issuing notices. The assessing officer is bound to furnish reasons within a reasonable time. On receipt of reasons, the noticee is entitled to file objections to issuance of notice and the assessing officer is bound to dispose of the same by passing a speaking order. In the instant case, as the reasons have been disclosed in these proceedings, the assessing officer has to dispose of the objections, if filed, by passing a speaking Order before proceeding with the assessment in respect of the abovesaid five assessment years.

4. In the light of the aforesaid procedure and the reasons having been admittedly furnished to the petitioner in respect of Assessment Years 2001-02 to 2006-07, the petitioner is permitted to file objections to assumption of jurisdiction within a period of two (2) weeks from date of receipt of a copy of this order. Upon receipt of the same, the objections shall be disposed after affording opportunity to the petitioner and the proceedings for re-assessment shall be taken up in line with the procedure set out above.

5. W.P.Nos.25015 to 25020 of 2008 are closed. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

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CHENNAI - 600 034.

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CHENNAI 34

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INCOME TAX INCOME RANGE V,
NO.121 NUNGAMBAKKAM HIGH ROAD,
CHENNAI 34

+2cc to M/S.HEMA MURALIKRISHNAN, Advocate
SR.Nos.93725 & 93728

AKM/22.01.2020/5P-7C /

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