IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 02.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.No.33543 of 2005
and
W.M.P.No.36482 of 2005

Indian Chamber of Commerce and Industry,
Avinashi Road, Coimbatore.
Rep. by its Honorary Secretary. ...Petitioner

Vs

1. The Government of India
Rep. by the Secretary,
Ministry of Finance,
Shastri Bhavan,
R.P.Marg, New Delhi - 110002.

2. The Central Board of Direct Taxes,
Government of India,
Ministry of Finance,
Department of Revenue, New Delhi.
Rep. by its Secretary.

3. The Chief Commissioner of Income Tax,
Race Course Road,
Coimbatore - 641018. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Declaration, declaring Sections 115WA and 115WL of the Income Tax Act, 1961 as introduced by the Finance Act, 2005 as well as the Rules made under the Income-tax Rules, 1994 as illegal, unconstitutional and ultra vires Sections 14, 19(1)(g) and 265 of the Constitution of India.

For Petitioner : M/s.AL.Ganthimathi

For Respondents : Mr.ANR.Jayaprathap, JSC

O R D E R

Heard Mrs.AL.Ganthimathi, learned counsel for the petitioner and Mr.ANR.Jayaprathap, Junior Standing Counsel for the respondents.

WEB COPY

2. The learned counsel for the petitioner as well as the learned Junior Standing Counsel for the respondents submitted that the declaration sought for in the present Writ Petition has been now seized of by the Hon'ble Supreme Court and similar Writ Petitions have been transferred to the Hon'ble Supreme Court from the other High Courts as well.

3. Thus, considering the fact that the matter is now seized of by the Hon'ble Supreme Court, the present Writ Petition can be disposed of with appropriate directions, leaving it open to the parties i.e. the petitioner as well as the respondents to abide by the decision to be taken by the Hon'ble Supreme Court.

4. The learned Junior Standing Counsel for the respondents expressed an apprehension that in the event the Hon'ble Supreme Court uphold the provisions as being a valid piece of legislation, then the assessees like the petitioner should not plead that the action that may be initiated by the Department or in the process of being initiated, is barred by limitation.

5. The Revenue need not have any apprehension in this regard, as the Court proposes to safeguard the interest of the Revenue by passing the following orders:

> "The petitioners are directed to abide by the decision of the Hon'ble Supreme Court where the challenge to the impugned provisions are pending. It is made clear that in the event the Hon'ble Supreme Court upholds the impugned legislation and the Department initiates action or proceeds with the action already initiated, the petitioners/assessees are not entitled to plead limitation and the period during which these Writ Petitions are pending as well as the period till the matter is decided by the Hon'ble Supreme Court, shall stand excluded for computation of limitation."

6. Accordingly, the present writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

To

1. The Secretary,
    The Government of India
    Ministry of Finance,
    Shastri Bhavan,
    R.P.Marg, New Delhi - 110002.

2. The Secretary,
    Central Board of Direct Taxes,
    Government of India,
    Ministry of Finance,
    Department of Revenue, New Delhi.

3. The Chief Commissioner of Income Tax,
    Race Course Road,
    Coimbatore - 641018.

+1 cc to M/s.AL.Ganthimathi,Advocate Sr.No. 66786
+1 cc to M/s.A.P.Srinivas, Advocate Sr.No.66823

AKM/13.09.19/3P-6C /

W.P.No.33543 of 2005
and W.M.P.No.36482 of 2005

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/