IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 14984 of 2002
and
W.P.M.P. No. 20135 of 2002

M/s. Sree Namagiri Textiles
21-A, Avvai Moodhatti Street,
Komarapalayam,
rep. by its Partner. ... Petitioner

-vs-

The Deputy Commissioner of Income Tax,
Central Circle - I,
Coimbatore. ... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the Respondent in P.A.No.AAFF56822D and quash the impugned order dated 21.03.2002 and consequently direct the Respondent not to levy any surcharge on the block assessment and interest under Section 158BFA(1) of the Act.

For Petitioner : Mr. R.Venkatnarayanan
for M/s. Subbaraya Aiyarpadmanabhan

For Respondent : Mr. A.P.Srinivas
Standing Counsel

O R D E R
(through video conference)

Heard Mr. R.Venkatnarayanan, Learned Counsel for the Petitioner and Mr. A.P.Srinivas, Learned Standing Counsel for the Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the order in P.A. No. AAFFS6822D dated 21.03.2002 passed by the Respondent assessing the liability of the Petitioner for income tax for the block period from 01.04.1989 to 02.03.2000 under Section 143(3) read

with Section 158BC of the Income Tax Act, 1961 (hereinafter referred to as the 'Act' for short).

3. The grievance sought to be ventilated by the Petitioner is that the surcharge at 10% with interest thereon could not have been levied for the tax payable by the Petitioner for that period in view of the relevant statutory provisions, as it then stood, as reflected in the dictum laid down by Constitutional Bench of the Hon'ble Supreme Court of India in Commissioner of Income Tax (Central)-I -vs- Vatika Township Private Limited [(2014) 367 ITR 466 (SC)] that surcharge cannot be levied by the Assessing Officer for the block assessment pertaining to the period prior to 01.06.2002.

4. Having due regard to the aforesaid legal position, the impugned order insofar as it levies surcharge with consequential interest thereon, cannot be sustained and that portion of the assessment shall stand deleted. The assessment of the Petitioner in the impugned order in other respects is confirmed. The Petitioner is entitled to work out his remedies in that regard before the proper forum in the manner recognized by law.

In the result, the Writ Petition is ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Maya
To

The Deputy Commissioner of Income Tax,
Central Circle - I,
Coimbatore.

+1 CC to Mr.A.P. Srinivas, Advocate sr 33021.
+1 CC to M/s. Subbaraya Aiyar, Advocate sr 33403.

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MTI(CO)
SP(03/11/2020)