IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.03.2020

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THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.46933 to 46936 of 2002
and
W.M.P.Nos.68127 to 68130 of 2002

M/s.Asvini Fisheries Ltd.,
Represented by its Director
136 & 139, Old Mahabalipuram Road
Karapakkam. Chennai 600 096. ... Petitioner in all W.Ps.

Vs.

Deputy Commissioner of Income Tax
Company Range I (1)
122, Uttamar Gandhi Salai
Chennai 600 034. ... Respondent in all W.Ps.

Prayer in W.P.No.46933 of 2002: Petition filed under Article 226 of The Constitution of India praying to issue writ of Certiorarified Mandamus to call for the records of the petitioner in G.I.No.226/A, on the file of the respondent and quash the Impugned Notice dated 28.05.2001 for the Assessment year 1996-97 and consequently direct the Respondent not to proceed further under Section 143 (2) in pursuance of the said notice.

Prayer in W.P.No.46934 of 2002: Petition filed under Article 226 of The Constitution of India praying to issue writ of Certiorarified Mandamus to call for the records of the petitioner in G.I.No.226/A, relating to the erstwhile Asvini Cold Storage (P) Ltd.,) on the file of the Respondent and quash the Impugned Notice dated 28.05.2001 for the Assessment year 1994-95 and consequently direct the Respondent not to proceed further under Section 143 (2) in pursuance of the said notice.

Prayer in W.P.No.46935 of 2002: Petition filed under Article 226 of The Constitution of India praying to issue writ of Certiorarified Mandamus to call for the records of the petitioner in G.I.No.226/A, relating to the erstwhile Century Cold Storage Ltd. on the file of the Respondent and quash the Impugned Notice dated 28.05.2001 for the Assessment year 1994-95 and consequently direct the Respondent not to proceed further under Section 143 (2) in pursuance of the said notice.

Prayer in W.P.No.46936 of 2002: Petition filed under Article 226 of The Constitution of India praying to issue writ of Certiorarified Mandamus to call for the records of the petitioner in G.I.No.226/A, relating to the erstwhile Century Cold Storage Ltd. on the file of the Respondent and quash the Impugned Notice dated 28.05.2001 for the Assessment year 1995-96 and consequently direct the Respondent not to proceed further under Section 143 (2) in pursuance of the said notice.

For Petitioner in all W.Ps. : Mr.R.Venkatanarajanan
for
Mr.Subbaraya Ayar Padmanabhan

For Respondent in all W.Ps. : Mrs.Hema Muralikrishnan
Senior Standing Counsel

COMMON ORDER

Challenging the notices dated 28.05.2001 issued by the respondent under Section 148 of the Income Tax Act, 1961, relating to the assessment years 1994-95 to 1996-97, the petitioner has filed the present writ petitions.

2.Though the petitioner challenges the notices issued, they already filed objections dated 29.08.2002 for consideration.

3.Heard both sides, who jointly submitted that the issue involved herein is covered by the decision of the Supreme Court rendered in Civil Appeal Nos.7731 to 7737 of 2002 & S.L.P. (C) No. 5520, 5522, 5524, 5525, 5527, 5529 and 5531 of 2002 (GKN Driveshafts (India) Ltd., Vs. Income Tax Officer & Others), wherein, it is held thus:

> "5.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 decision, which is squarely applicable to the facts of the present case, this Court is of the view that it is for the respondent to consider the objections already filed by the petitioner and pass appropriate orders, on merits and as per law.

5.Accordingly, these writ petitions are disposed of, directing the respondent to consider the objections already filed by the petitioner and pass appropriate orders, on merits and in accordance with law, after affording due opportunity of personal hearing to the petitioner, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

Deputy Commissioner of Income Tax
Company Range I (1)
122, Uttamar Gandhi Salai
Chennai 600 034

+1cc to Mrs.Hema MuraliKrishnan, Advocate, S.R.No.23384

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KS(CO)
KKV/08/07/2020