

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2020

CORAM

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

W.P. No. 28752 of 2004

MS&S (Motors) Private Ltd.,
Palarivattom, Cochin-25,
rep. by its Director
Rubab Harris.

... Petitioner

-vs-

1.The Income Tax Settlement Commission,
Additional Bench,
488-489, Anna Salai,
Chennai - 600 035.

2.The Union of India,
represented by
The Chairman,
Central Board of Direct Taxes,
North Block,
New Delhi.

3.The Commissioner of Income Tax,
Central, Cochin.

4.The Assistant Commissioner of Income Tax,
Central Circle-I (3),
Ernakulam.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the files of the First Respondent herein in Settlement Application Nos.13/CHN/3/95-IT and 13/CHN/108/95-IT dated 24.03.2004 and to quash the proceedings of the First Respondent herein in Settlement Application Nos. 13/CHN/3/95/IT and 13/CHN/108/95-IT dated 24.03.2004.

For Petitioner : Mr. K.A.Parthasarathi
for Mr. N.Inbarajan

For Respondents: Mrs. Hema Muralikrishnan
(Standing Counsel)

O R D E R

(through video conference)

Heard Mr. K.A.Parthasarathi, Learned Counsel for the Petitioner and Mrs. Hema Muralikrishnan, Learned Standing Counsel appearing for the Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the order Nos. 13/CHN/3/95-IT & 13/CHN/108/95-IT dated 24.03.2004 passed by the First Respondent viz., the Income Tax Settlement Commissioner, Additional Bench, Chennai in respect of the assessment of income tax payable by the Petitioner for the period from 1991-1992 to 1995-1996.

3. Learned Counsel for the Petitioner has brought to the notice of this Court that in respect of similarly placed persons, the Division Bench of this Court in *Sultan Pillai & Sons -vs- The Income Tax Settlement Commission* (Order dated 04.03.2020 in W.P. No. 28758 of 2004) has held as follows:-

"4. Having heard the learned counsel for the parties, we are satisfied that the present impugned order of the Settlement Commission does not require any interference by this Court at this stage. If the Assessee intends to make any submission on the basis of any subsequent Supreme Court decision, which according to the Assessee is applicable to the facts of the present case, he is at liberty to move the Settlement Commission itself. Since apparently the impugned order has been passed in pursuance of the remand order of the Hon'ble Supreme Court itself, if there is any subsequent development or law or change of position of law at the hands of the Hon'ble Supreme Court, it is open to the Assessee to move the Settlement Commission itself for applying the correct position of law."

Learned Counsel for the Petitioner submits that the Petitioner would be satisfied if the same benefit is extended to him in this case.

4. Having regard to the aforesaid submissions made, though this Court is not inclined to interfere with the impugned order at this stage, it is made clear that the Petitioner is not precluded from moving the Settlement Commission by appropriate proceedings for applying the correct position of law in respect of the assessment of tax of the Petitioner for the relevant years.

5. In fine, the Writ Petition is disposed on the aforesaid terms. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1.The Income Tax Settlement Commission,
Additional Bench,
488-489, Anna Salai,
Chennai - 600 035.
- 2.The Chairman,
The Union of India,
Central Board of Direct Taxes,
North Block,
New Delhi.
- 3.The Commissioner of Income Tax,
Central, Cochin.
- 4.The Assistant Commissioner of Income Tax,
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+2cc to M/s.N.Inbarajan, Advocate Sr.34036

W.P. No. 28752 of 2004

ad[co]
srg 06/11/2020

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