IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2020

CORAM

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

W.P. No. 28753 of 2004

L.Sivanandan
Proprietor, Maharaja Super Market,
M.G. Road,
Ernakulam. ... 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,
Cochin.

4.The Assistant Commissioner of Income Tax,
Investigation Circle-I,
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 No. 13/CHN/47/94-

IT dated 23.03.2004 and to quash the proceedings of the First Respondent herein in Settlement Application No. 13/CHN/47/94/IT dated 23.03.2004.

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 No. 13/CHN/47/94-IT dated 23.03.2004 passed by the First Respondent viz., the Income Tax Settlement Commission Additional Bench, Chennai, in respect of the assessment of income tax payable for the Petitioner for the period from 1987-1988, 1988-1989, 1991-1992 to 1993-1994.

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 and others*** that 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. Though, this Court is not inclined to interfere with the impugned order at this stage. The Writ Petition is disposed on the aforesaid terms. No costs.

14.10.2020
2/2

dm/kv

Index : Yes/No

Note: Issue order copy by 04.11.2020.

To

1.The Income Tax Settlement Commission,
Additional Bench,
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Chennai - 600 035.

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Central Board of Direct Taxes,
North Block,
New Delhi.

3.The Commissioner of Income Tax,
Cochin.

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P.D. AUDIKESAVALU, J.

dm/kv

W.P. No. 28753 of 2004

14.10.2020
2/2