IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2020

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.4111 of 2020
and WMP.No.4865 of 2020

M/s.Cholan Buildings & Estates,
Rep. by its Managing Partner,
No.305A/110, M.G.Road,
New Fairlands, Salem – 636 016.

... Petitioner

Vs.

1.The Chief Commissioner of Income-Tax,
4th Floor, C.R.Building Annex,
Queens Road, Bangalore.

2.The Deputy Commissioner of Income-Tax,
Central Circle 2 (2),
4th Floor, C.R.Building Annex,
Queens Road, Bangalore.

3.The Commissioner of Income Tax (Appeals) – VI,
Bangalore, Karnataka.

4.The Deputy Commissioner of Income-tax,
Circle 1(1),
Gandhi Road, Salem 636 007.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Mandamus to direct the Respondents to transfer the appeal proceedings in Appeal Nos.CIT(A) Bengaluru – 11/11471/2018-19, CIT(A) Bengaluru – 11/10784/2014-15 and CIT(A) Bengaluru – 11/11473/2018-19, for the Assessment Year 2010-11, 2011-12 and 2012-13 respectively pending on the file of the 3rd Respondent, to the jurisdictional Circle 1(1) Salem in the interest of justice as per law.

For Petitioner : M/s.Dr.R.Maheswari

For Respondents : Mr.A.N.R.Jeyaprathap
Government Advocate

O R D E R

The petitioner has sought a mandamus for transfer of appeals pending before the Commissioner of Income Tax (Appeals) Bangalore/R3 to the Appellate Commissioner at Salem. The appeals filed relate to assessments that had been framed pursuant to search and seizure action in the case of one M/s. Team Life Care India Private Limited on 20.10.2020 and other group cases. The aforesaid entity is based in Bangalore as a result of which all search assessments of both the aforesaid company and in related cases that were searched including the petitioner and its partners were framed by the Assessing Authority at Bangalore. First appeals thus came to be filed before R3.

2. Insofar as the petitioner is concerned it is a partnership firm comprising of one N.Gunasekaran, N.Gunasekaran (HUF) and his wife G.Shyamala, who is, admittedly, no more. First appeals have been filed by N.Gunasekaran challenging the assessments made on him in his individual capacity as well as the petitioner firm. A request was thereafter made by him seeking transfer of the appeals to the appellate authority at Salem citing advanced age. In consideration of this request and accepting the same, appeals filed by the individual have been transferred to the appellate authority at Salem. However, the appeals of the firm in which N.Gunasekaran and N.Gunasekaran (HUF) are partners, are being retained in Bangalore Hence the present writ petition.

3. Reiterating the contents of the counter, learned revenue counsel would admit the position that all appeals involving the searched as well as related entities were initially centralized for assessment. Subsequently, and by order dated 31.05.2018, they were decentralised, delinking the individual appeals of N.Gunasekaran and permitting the transfer of the said appeals from Bangalore to Salem. In counter, the second respondent, the assessing authority at Bangalore extends an assurance that the decentralization and transfer of the firms' appeals will also be considered after passing of the first appellate order for all assessment years.

4. Normally this Court would not be inclined to intervene in matters of transfer and posting of assessments and appeals as they fall within the domain of administration of the officials of the Department. Furthermore, I am conscious of the fact that these assessments and appeals relate to search proceedings and it is sometimes necessary that connected records may be kept at one venue for ease of framing assessments and disposing appeals. It is for this reason that search assessments are normally centralized at one point.

5. However, in the present case the petitioner is a firm whose Managing Partner is N.Gunasekaran. The other partner is N.Gunasekaran (HUF). His individual appeals have been decentralized in May 2018. The Department has accepted the

request for transfer of the individual's appeal to Salem, on account of the advanced age of N.Gunasekaran and I see no reason why the same logic not be extended to the firm's appeals as well, seeing as the person to effectively represent these appeals is one and the same person. I reiterate that there is neither an averment in the counter citing any difficulty whatsoever that would be caused by reason of the transfer of the appeals nor is any averment made in this regard by the learned Government Advocate before me.

6. For the aforesaid reasons, the mandamus sought for is issued and the appeals of the petitioner firm pending before R3/the Appellate Authority at Bangalore are directed to be transferred to Salem to be heard along with the individual appeals of N.Gunasekaran within a period of six(6) weeks from today.

7. This writ petition is allowed in the aforesaid terms. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The Chief Commissioner of Income-Tax,
4th Floor, C.R.Building Annex,
Queens Road, Bangalore.

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Central Circle 2 (2),
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3.The Commissioner of Income Tax (Appeals) - VI,
Bangalore, Karnataka.

4.The Deputy Commissioner of Income-tax,
Circle 1(1),Gandhi Road, Salem 636 007.

+1cc to Mr.A.P.Srinivas , Advocate SR.No. 33354
+1cc to M/s.R.Maheswari , Advocate SR.No. 33366

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A.SK(09/11/2020)