

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2020

CORAM

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

W.P. No. 871 of 2018

and

W.M.P. Nos. 1045, 1046 and 23899 of 2018

M/s. Chamundi Steel Castings India Ltd.,
Represented by its Director Mr. Pawan Gupta,
No. 11/63, 1st Floor, Mugappair East,
JJ Nagar,
Chennai – 600 037.

... Petitioner

-VS-

The Deputy Commissioner of Income Tax,
Corporate Circle 1 (2),
Room No. 613, 6th Floor, Wanaparthi Block,
121, Uthamar Gandhi Salai,
Nungambakkam,
Chennai – 600 034.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the Respondent and quash the impugned order bearing PAN No. AAACC3074F dated 20.12.2017.

For Petitioner : Mr. V.S.Jayakumar

For Respondent : Mrs. Hema Muralikrishnan,
Standing Counsel

ORDER
(through video conference)

Heard Mr. V.S.Jayakumar, Learned Counsel for the Petitioner and Mrs. Hema Muralikrishnan, 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 PAN/GIR No. AAACC3074F dated 20.12.2017 passed by the Respondent re-assessing the liability of the Petitioner for the assessment year 2012-2013 under Section 143(3) read with Section 147 of the Income Tax Act, 1961 (hereinafter referred to as the 'IT Act' for short).

3. It is brought to notice that the Petitioner, in addition to this Writ Petition, had filed appeal in ITA No. 161/17-18/CIT(A)-4/AY: 2012-13 under Section 250(6) of the Income Tax Act, 1961, against the same order before the Commissioner of Income Tax (Appeals)-4, Chennai, which was disposed as

withdrawn by order dated 12.11.2018 in view of the filing of this Writ Petition, taking note of the letter dated 20.09.2018 sent by the Petitioner reserving the right of the Petitioner to revive that appeal if it become necessary later.

4. It is the case of the Petitioner that on receipt of notice dated 31.03.2017 for re-opening the assessment under Section 148 of the IT Act, the Petitioner by letter dated 08.05.2017 had sought for reasons which was furnished on 10.05.2017 by the Respondent. However, the Petitioner had raised objections only on 22.11.2017 and in the meanwhile, the Respondent had commenced the re-assessment proceedings after issuing notice dated 30.08.2017 which had culminated in the order dated 20.12.2017 passed by the Respondent. The contention raised in this Writ Petition citing the decision of the Hon'ble Supreme Court of India in ***GKN Driveshafts (India) Ltd., -vs- Income Tax Officer*** [(2003) 1 SCC 72] is that without disposing the objections raised by the Petitioner in the letter dated 22.11.2017, the Respondent ought not to have passed the final order.

5. Having regard to the fact that the reasons for re-opening had been furnished by Respondent on 10.05.2017 and the Petitioner had not promptly raised objections, the Respondent cannot be faulted for proceeding further to

take final decision. When this view was expressed, Learned Counsel for the Petitioner has sought permissions of this Court to withdraw the Writ Petition with liberty to the Petitioner to apply for reviving the appeal in ITA No. 161/17-18/CIT(A)-4/AY: 2012-13 against the impugned order before the Commissioner of Income Tax (Appeals)-4, Chennai, so as to raise all contentions including the factual aspects in the objections in the letter dated 22.11.2017 sent to the Respondent. He has also filed a memo dated 22.12.2020 through e-mail to that effect, which is placed on record.

Accordingly, the Writ Petition is dismissed as withdrawn granting such liberty. It is needless to add here that the Petitioner is not precluded from seeking any clarifications, that may be required. Consequently, the connected Miscellaneous Petitions are closed. No costs.

22.12.2020

vjt/dm

Index: Yes/No

Note: Issue order copy by 06.01.2021.

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To

The Deputy Commissioner of Income Tax,
Corporate Circle 1 (2),
Room No. 613, 6th Floor, Wanaparthi Block,
121, Uthamar Gandhi Salai,
Nungambakkam,
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Copy to

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P.D. AUDIKESAVALU, J.

vjt



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