IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.03.2020

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition No.5645 of 2020
W.M.P.No.6593 and 6595 of 2020

M/s. Star Health and Allied Insurance Co. Ltd.,
Rep. by its Chief Financial Officer,
Mr.S.Venkataraman ...Petitioner

--Vs--

Assistant Commissioner of Income Tax,
Corporate Circle-6(2)
7th Floor, New Block, Room No.705,
121, Mahatma Gandhi Road,
Chennai-600 034 ...Respondent

PRAYER: PETITION filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for the records of the on the file of the respondent and quash the impugned re-assessment order passed under Section 143(3) r.w.s. 147 of the Income Tax act, 1961 dated 27.12.2019 for the assessment year 2014-15.

For Petitioner : Mr.R.Sivaraman

For Respondent : Mr.A.P.Srinivas
Senior Standing Counsel

O R D E R

Mr.A.P.Srinivas, learned Senior Standing Counsel accepts notice for the respondent and is armed with instructions in the matter.

2. The challenge in this writ petition is to an order of re-assessment for assessment year 2014-15. passed in terms of the provisions of the Income Tax Act, 1961 (in short 'Act').

3. One of the grounds raised is that no separate speaking order has been passed by the Assessing Authority and he is required to do in terms of the Judgement of the Supreme Court in the case of GKN Driveshafts (India) Ltd. vs. Income Tax Officer

and Others (259 ITR 19). A perusal of the objection dated 10.06.2019 reveals that the petitioner has incidentally stated that the proposal to re-open the assessment be dropped as the basis upon which the proceedings have been initiated are flawed.

4. Be that as it may, the petitioner has also filed a statutory appeal within time before Commissioner of Income Tax (Appeals). In view of the aforesaid, I am not inclined to interfere under Article 226 of the Constitution of India.

5. The petitioner has moved the Assessing Authority for an interim stay of demand, which has been considered and an order passed on 17.02.2020 granting a scheme of installment to the petitioner by way of five (5) equated monthly installments of the demand to be paid by the 30th of each month. The scheme of installments commences from February 2020.

6. Leaned counsel for the petitioner confirms that no amount has been paid thus far towards the disputed demand. The total demand is for a sum of Rs.42,43,57,970/-and the tax component comes to a sum of Rs.25,11,05,384/-.

7. Thereafter, the petitioner is permitted to file a stay application before the Commissioner of Income Tax (Appeals) before whom the appeal is pending, within a period of two (2) weeks from today. Stay of the balance demand till disposal of the stay application by the Commissioner of Income Tax (Appeals), upon a consideration of the matter, the petitioner is directed to remit 10% of the disputed tax of Rs.25,11,05,384/- forthwith. Such application, if filed within the period as aforesaid and upon compliance of the terms imposed will be taken up and disposed after hearing the petitioner within a period of four (4) weeks from date of filing of the application. If no stay application is, as permitted, filed within the timeline as aforesaid, the order of the Assessing Authority impugned before me will stand revived and the stay granted early stands automatically vacated.

8. This writ petition is disposed in the above terms. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

Assistant Commissioner of Income Tax,
Corporate Circle-6(2)
7th Floor, New Block, Room No.705,
121, Mahatma Gandhi Road,
Chennai-600 034

+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.20307

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NMI(CO)
nvi/28.05.2020

06.03.2020