

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.Nos.12203, 12210, 12214, 12206 & 12209 of 2020
and WMP.Nos.14959, 14951, 14961, 14947, 14953,
14954, 14962, 14958, 14965 & 14967 of 2020

M/s.Redington Distribution Pvt. Ltd.,
No.60 Robinson Road,
#12-02, BEA Building,
Singapore 068892,
Rep. By its Director,
Raj Shankar

.. Petitioner in all WPs

Vs.

1.Deputy Commissioner of Income Tax,
International Taxation Circle-2(1), Chennai
Room No.409, 4th Floor,
No.16, BSNL Building, Tower-I,
Greaves Road, Chennai, Tamil Nadu - 600 006.

2.The Dispute Resolution Panel, Bangalore
Kendriya Sadan, 4th Floor, Koramangala,
Bangalore, Karnataka 560 034. .. Respondents in all WPs

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus to call for the records of the Petitioner on the file of the 1st Respondent/AO and quash the impugned order passed u/s. 143(3) r.w.s 147 r.w.s 144C(3) dated 27.02.2020 for the assessment years 2012-13, 2015-16, 2016-17, 2013-14 and 2014-15 respectively in PAN No: AAECR7054E by the 1st Respondent and consequently direct the 2nd Respondent/DRP to dispose the objections filed on 28th January 2020 on merits in the manner laid down by the provisions of Section 144C of the IT Act, 1961.

For Petitioner (In all Cases)	: Mr.Vijayaraghavan for Mr.Subbaraya Aiyar Padmanabhan
For Respondents (In all Cases)	: Mrs.Hema Muralikrishnan Senior Standing Counsel

COMMON ORDER

The petitioner has challenged orders of assessment for assessment years (AY) 2012-13, 2013-14, 2014-15, 2015-16 and 2016-17 passed in terms of the provisions of the Income Tax Act, 1961 (in short 'Act'). The question that has been raised for consideration is as to whether the Assessing Officer is right in having passed the impugned orders of assessment inspite of the assessee having approached the Dispute Resolution Panel (DRP) within the time stipulated under Section 144C and merely for the reason that notice, as required in terms of Section 144C(2)(b), was not given to the Assessing Officer simultaneous with the filing of the objections.

2. By order dated 09.09.2020, I had granted an interim stay of recovery pursuant to the impugned orders of assessment and directed the Senior Standing Counsel, who had accepted notice on behalf of the revenue, to file a counter.

3. One of the defences taken in the counter is to the effect that the petitioner has, prior to the filing of these writ petitions, approached the Commissioner of Income Tax (Appeals) (CIT (A)) by way of statutory appeals challenging the very same orders of assessment. The revenue would thus argue that the petitioner not be permitted to ride two horses for the same relief. It is also pointed out that the affidavit filed in support of the writ petition does not disclose the aforesaid fact.

4. Admittedly, statutory appeals as aforesaid, have been filed and this fact does not find mention in the affidavit. However, as regards the allegation of conscious non-disclosure, learned counsel for the petitioner would submit that the affidavits were signed at Singapore even prior to the filing of the statutory appeals, though the writ petitions were filed thereafter. The explanation appears plausible and the omission to mention this fact in the affidavit filed in support of the writ petition is thus held to be inadvertent.

5. Be that as it may, seeing as the petitioner has already availed the statutory remedy of appeal, I am not inclined to entertain these writ petitions that challenge the very same orders of assessment appealed against, as the present ground relating to the assumption of jurisdiction of the Assessing Officer could well be raised before the appellate authority. In permitting the petitioner to raise this ground before the CIT(A), I am conscious of the position that the powers of the CIT(A) in terms of Section 251 are wide and he/she can, apart from confirming, reducing or enhancing the demand raised, also annul the assessment which would be the resultant position, if the argument of petitioner on merits were to be accepted.

6. I thus permit the petitioner to file additional grounds of appeal on the above aspect of the matter and such additional grounds, if and when filed, will be taken up for adjudication along with the appeal in due course. My observations in interim order granted on 09.09.2020 at paragraph-3 will not stand in the way of independent application of mind by the CIT(A) upon this issue.

7. These writ petitions are dismissed in the aforesaid terms. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Deputy Commissioner of Income Tax,
International Taxation Circle-2(1), Chennai
Room No.409, 4th Floor,
No.16, BSNL Building, Tower-I,
Greens Road, Chennai, Tamil Nadu - 600 006.

2.The Dispute Resolution Panel, Bangalore
Kendriya Sadan, 4th Floor, Koramangala,
Bangalore, Karnataka 560 034.

+1cc to Mr.Mr.Subbaraya Aiyar Padmanabhan , Advocate SR.No.
33636

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A.SK(09/11/2020)