IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2020

CORAM

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

W.P. No. 1441 of 2013

M/s. Savera Industries Limited,
(Formerly known as Savera Hotels Ltd.,)
146, Dr. Radakrishnan Road,
Chennai - 600004
Represented by its Managing Director ...Petitioner

-vs-

1. The Asst. Commissioner of Income Tax,
   Company Circle (VI)(1),
   121, Mahatma Gandhi Road,
   Chennai - 600 034.

2. Deputy Commissioner of Income Tax,
   Company Circle VI(1),
   121, Mahatma Gandhi Road,
   Chennai - 600 034.

3. Commissioner of Income Tax,
   121, Mahatma Gandhi Road,
   Chennai - 600 034. ...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records and quash the impugned notice issued under Section 148 of the Income-tax Act bearing No.: PAN/GIR No. AAECS9541D dated 21.03.2012 issued by the First Respondent seeking to reopen the assessment for the Assessment year 2006-07.

For Petitioner : Mr. V.S.Jayakumar
For Respondents : Mr. A.P.Srinivas
Standing Counsel.

O R D E R
(through video conference)

Heard Mr. V.S.Jayakumar, Learned Counsel for the Petitioner and Mr. A.P.Srinivas, Learned Standing Counsel appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. Learned Counsel for the Petitioner has filed a memo dated 22.12.2020 through email which reads as follows:-

> “1. The Petitioner had filed the present Writ Petition challenging the jurisdiction of the Respondents to initiate proceedings under Sections 147 and 148 of the Income-tax Act, 1961 for the Assessment Year 2006-07. The said Writ Petition was earlier dismissed by this Hon'ble Court by order dated 04/07/2014 in a batch of Writ Petitions wherein in High Court erroneously concluded that Writ Petitions against proceedings initiated under Section 147 is not maintainable.
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> 2. The Petitioner filed SLP against the order of this Hon'ble Court in SLP. No. 29177 of 2014 (on 28/10/2014). The same was admitted by the Supreme Court on 01/04/2016. By the time the SLP was taken up for hearing and interim orders were issued, the Respondent proceeded with the assessment and assessment order was passed for the AY 2006-07 on 24/10/2014. Later, the Supreme Court allowed the appeal of the Petitioner by order dated 08/12/2016 and restored the Writ Petition to the High Court.
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> 3. The Assessing Officer, for the assessment year 2006-07, made disallowances on the ground that the expenditure incurred by the assessee for relaying of marble floor in the place of mosaic flooring was treated as capital expenditure, similarly, the wood work done by the assessee, purchase of grinder and kitchen equipment, and television. Which is the basis of reopening the assessment by issuance of notice under Section 147.
>
> 4. The said issue was taken up on appeal by the Petitioner to CIT(A) and the same was allowed in favour of Petitioner for AY 2006-07 and the Department's appeal against the order of CIT(A) to ITAT was also dismissed by order dated 23.11.2016.
>
> 5. The Respondent took the issue in appeal before the High Court in TCA No.594 of 2018. The same was dismissed on merits and the High Court vide order dated 17/12/2018 and concluded that the renovation expenditure is revenue in nature and to be allowed

under Section 37 of the Act. The order of the High Court has been accepted by the Respondents and no SLP has been filed before the Supreme Court.

6. In view of the above events, the issue in the present Writ Petition on merits has been allowed by the order of this Hon'ble Court in TCA No. 594 of 2018 dt. 17/12/2018 and the present Writ Petition be closed in view of the said order."

The aforesaid submissions made are placed on record.

3. In view of the subsequent events, nothing remains for further consideration in this Writ Petition.

Accordingly, the Writ Petition is disposed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Asst. Commissioner of Income Tax,
Company Circle (VI)(1),
121, Mahatma Gandhi Road,
Chennai - 600 034.

2. Deputy Commissioner of Income Tax,
Company Circle VI(1),
121, Mahatma Gandhi Road,
Chennai - 600 034.

3. Commissioner of Income Tax,
121, Mahatma Gandhi Road,
Chennai - 600 034.

+1cc to Mr. A.P.Srinivas, Advocate, SR42823
+1cc to Mr. Sandeep Bagmar, Advocate, SR42794

W.P. No. 1441 of 2013

CO(MJB)
BDL/06/01/2021