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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.32752 of 2017  
and  
W.M.P.No.36090 of 2017

M/s.Cognizant Technology Solutions India Pvt Ltd,  
6<sup>th</sup> Floor, New No.165/ old No.110,  
Menon Eternity Building,  
St.Mary's Road, Chennai - 600 018. ... Petitioner

Vs.

- 1.Deputy Commissioner of Income Tax,  
Large Taxpayer Unit-I,  
1775, Jawaharlal Nehru Inner Ring road,  
Anna Nagar Western Extension,  
Chennai - 600 101  
Now at 7<sup>th</sup> Floor, Wanaparthi Block,  
Aayakar Bhavan, Chennai - 600 034.
- 2.The Additional Commissioner of Income Tax,  
Large Taxpayer Unit-I,  
1775, Jawaharlal Nehru Inner Ring Road,  
Anna Nagar Western Extension,  
Chennai - 600 101, Now at 7<sup>th</sup> Floor, Wanaparthi Block,  
Aayakar Bhavan, Chennai - 600 034. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, to call for the records pertaining to the Notice under Section 147/148 of the Income Tax Act, bearing PAN No.AAACD3312M/2009-10 dated 28.03.2016, issued by the 1<sup>st</sup> respondent herein, as well as the consequential order bearing PAN No.AAACD3312M/2009-10 dated 15.11.2017 and quash the same.

For Petitioner : Mr.Srinath Sridevan

For Respondents : M/s.Hema Muralikrishnan  
Standing Counsel



## O R D E R

In this Writ Petition, the petitioner has challenging the impugned notice dated 28.03.2016 issued by the 1<sup>st</sup> respondent under Section 148 of the Income Tax Act, 1961 and reply dated 15.11.2017 given by the 1<sup>st</sup> respondent rejecting the objections raised by the petitioner.

2. The petitioner had filed its income tax return for the Assessment Year 2009-10, on 29.09.2009. Issue relating to Section 10A exemption was considered by the Assessing Officer while passing the assessment order dated 05.03.2013. At the fag end of the limitation, i.e. three days before the expiry of the limitation of six years, a notice dated 28.03.2016 under Section 148 of the Income Tax Act, 1981 was issued to re-opening the Assessment completed on 05.03.2013 for the Assessment year 2009-2010.

3. The petitioner sent a representation dated 21.04.2016 and called upon the respondent to furnish the reasons for re-opening the Assessment in terms of the decision of the Hon'ble Supreme Court in the case of GKN Driveshaft (India) Ltd. Vs. ITO, (2003) 259 ITR 19.

4. The respondent by a communication dated 14.07.2016 furnished the reasons for re-opening the Assessment. The reasons given for re-opening the assessment appears to be the reasons given for re-opening of the Assessment for Assessment Year 2010-11 vide notice dated 28.03.2015.

5. The respondent in the counter have also admitted inadvertent mistake in the reasons for reopening the Assessment as follows:-

Since the reasons for reopening are the same, due to clerical and inadvertent mistake, the figures that have been mentioned in the reasons for reopening for the AY.2009-2010 are the figures in respect of the AY.2010-11. However, the moot point to be noted is that the issues on which reopening of assessment has been done are reasons that are applicable for the present Assessment year 2009-2010 and therefore it is absolutely wrong to contend that the respondent has not applied his mind or that there has been a change of opinion.

6. I have considered the arguments of the learned counsel for the petitioner and the learned Standing Counsel for the



respondents.

7. Formation of reason is a sine qua non for re-opening the Assessment. In this case, the figures given for justifying the re-opening the Assessment for the Assessment Year 2010-11 has been given as the reason for re-opening the Assessment for Assessment Year 2009-10.

8. Thus, it is clear that there was no reason available with respondent for re-opening the Assessment for Assessment Year 2009-10 though such reasons existed. The fact that the notice was issued mechanically at the fag end of limitation makes it clear that it was issued without formation of any opinion. Therefore, the impugned proceedings are liable to be quashed and are hereby quashed.

9. In the light of the above discussion, the Writ Petition stands allowed. No cost. Consequently, connected Miscellaneous Petition is closed.

s/d-  
Assistant Registrar (CS-III)

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Sub-Assistant Registrar

jas / jen

To

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+1 cc to M/s.Hema Muralikrishnan advocate sr16178

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