

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2020

CORAM

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

W.P. No. 2544 of 2017

and

W.M.P. Nos. 2502 and 2503 of 2017

M/s.Advantage Strategic Consulting Pvt. Ltd.
Rep. by its Director M.Rajesh
3B, Bajaj Apartments III Block
7/4, Nandanam Extension Main Road
Chennai - 600 035.

...Petitioner

-vs-

1. The Deputy Commissioner of Income Tax
Corporate Circle - 1(1)
Room No.611, Wanaparthi Block
6th Floor
No.121, Mahatma Gandhi Road
Nungambakkam, Chennai - 600 034.

2. The Assistant Commissioner of Income Tax
Central Circle - 2(1)
No.46, New Building, First Floor
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 relating to the notice issued to the Petitioner by the Respondent dated 31.03.2016, having Ref. No. PAN:AAFCA2689B under Section 148 of the Income Tax Act, 1961 and the consequential notice dated 19.12.2016, having Ref. No.AAFCA2689B issued by the Second Respondent under Section 142 (1) of the Income Tax Act, 1961 and quash the same as without jurisdiction.

For Petitioner : Mrs. C.Uma

For Respondents : Mr. A.P.Srinivas, Standing Counsel

O R D E R
(through video conference)

Heard Mrs. C.Uma, 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 15.12.2020, which reads as follows:-

"The above Writ Petition has been filed by M/s. Advantage Strategic Consulting Pvt Ltd for the following relief:-

"to issue a Writ of Certiorari or any other writ, order or direction calling for the records relating to the notice issued to the Petitioner by the First Respondent best dated 31.03.2016, having Ref.No.PAN:AAFCA2689B under Section 148 of the Income Tax Act, 1961 and the consequential notice dated 19.12.2016, having Ref. No. PAN:AAFCA2689B issued by the Second Respondent under Section 142(1) of the Income Tax Act, 1961 and quash the same as without jurisdiction."

While the above Writ Petition was pending the Assessing Officer passed re-assessment order for the year 2009-2010 on 30.12.2016 and had put it in a sealed cover. The copy of the said assessment order was served on the Petitioner's counsel 7 days ago.

The Petitioner prays that the Writ Petition may be allowed to be withdrawn with liberty to file an appeal before the Commissioner of Income Tax (Appeals).

It is prayed that this Hon'ble Court may be pleased to direct the Commissioner of Income Tax (Appeals) to excuse the delay in filing the appeal since the Petitioner was bonafide pursuing the above Writ Petition."

Learned Standing Counsel appearing for the Respondents accepts the said subsequent events, but contends that the order of re-assessment that had been passed on 30.12.2016, had been despatched to the Petitioner by letter dated 21.01.2019 and also electronically.

3. In such circumstances, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to file appeal against the said order dated 30.12.2016 before the Commissioner of Income Tax (Appeals). She has also filed a memo dated 15.12.2020 to that effect, which is placed on record.

Accordingly, the Writ Petition is dismissed as withdrawn granting such liberty. Having regard to the pendency of this Writ Petition, it is made clear that for the purpose of reckoning limitation for availing the aforesaid remedy, the period from the date on which the said order was made till today, viz., 15.12.2020, shall be excluded. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Maya/vjt

To

1. The Deputy Commissioner of Income Tax
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+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.41451

+1cc to M/s.C.Uma, Advocate, S.R.No.40888

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SAI (CO)
KKV/23/12/2020