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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P. (C) 1163/2018

SEEDWORKS HOLDINGS MAURITIUS ... Petitioner
Through: Mr.Porus Kaka, Sr.Advocate with Mr.Rahul Jain, Advocate.

versus

UNION OF INDIA & ORS. ...... Respondents
Through: Mr.G.C.Srivastava, Advocate for R-3/Revenue Department with Mr.Suvinay K Dash, Advocates.

% Date of Decision: 16th September, 2020

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE SANJEEV NARULA

J U D G M E N T

MANMOHAN, J: (Oral)

C.M.No. 22770/2020

1. The application has been listed before this Bench by the Registry in view of the urgency expressed therein. The same has been heard by way of video conferencing.

2. Present application has been filed by the petitioner seeking permission to withdraw the present writ petition with liberty to approach this Court in the event the respondents fail to drop the re-assessment proceedings initiated against Wand Group and the proceedings under Sections 201(1) and 201(1A) of the Income tax Act, 1961 (hereinafter referred to as the 'Act')

against the SeedWorks Singapore or act in any manner contrary to the assurances/clarifications issued by respondent no.3.

3. The alleged clarification/assurance given by respondent no.3 is stated to be contained in the letter dated 01st July, 2020 issued by the Joint Commissioner of Income Tax (OSD). The relevant portion of the said letter reads as under:-

> *"2. In this regard it is clarified that since the proceedings before DRP are still pending in the case of the company, the assessee is eligible for availing itself of the benefits of Vivad se Vishwas Scheme. If, the company settles its dispute under the VSV Scheme and pays the taxes, proceedings u/s. 148 initiated against M/s. Wand Equity Portfolio II LP and M/s. Wand Affiliates Fund LP (WAND GROUP) shall be dropped since all the proceedings pertain to the same transaction and income from the transaction should be taxed only once. Further, since the re-assessment notices were issued to protect the interest of Revenue and as per FAQ No 35, once taxes are paid by the principal tax payer, appropriate order shall be passed and issued by the Assessing officer to release the other parties from any action under the income tax act 1961 including the payment of tax, interest and penalty, etc.*
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> *3. Since the proceedings u/s. 201(1)/201(1A) of the act initiated against M/s. Seed works Singapore relates to the same transaction, as a corollary, the proceedings u/s. 201(1)/201(1A) of the act shall be dropped, considering that the company has paid the requisite taxes under the Vivad se Vishwas scheme. Accordingly no further action shall be taken against M/s. Seedworks Singapore under the IT Act, 1961 and the order shall be issued to M/s Seedworks, Singapore dropping the proceedings.*
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> *4. Based on the above clarification/assurances if the company proceeds under the VsV scheme, the Department shall co-operate with the company to withdraw/bring to a close the writ petition before the Delhi and Hyderabad High Court and the application before the DRP. The department shall also expeditiously bring an end to all other proceedings and litigation as set out above."*

4. Today, learned senior counsel for the petitioner has shared letters dated 13th August, 2020 written by the Joint Commissioner of Income Tax (OSD), International Taxation -2, Hyderabad to Wand Equity Portfolio II LP, Wand Affiliates Fund LP and SeedWorks Singapore Pte Ltd. The said letters are taken on record. One such letter is reproduced hereinbelow:-

"To
Wand Equity Portfolio II LP
260 Crandon Boulevard Suite,
32 # 75, Key Biscayne, Florida, USA-33149

Sir,

Sub: Dropping of re-assessment proceedings u/s 147 of the Income tax Act, 1961 (Act) for the AY 2012-13, in your own case-Reg.

Ref: Notice u/s 148 in File No. DCIT (IT)-2/148/2018-19 dated 06.07.2018.

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Kind reference is invited to the above.

The subject proceedings were initiated to tax the capital gains earned on sale of equity shares of SeedWorks India Private Limited, pursuant to the ruling of the Hon'ble AAR dated 08 November 2017. The subject notices were issued in addition to the reassessment notice issued to SeedWorks Holdings Mauritius (SHM).

SHM vide letter dated 25 June 2020 had sought certain clarification regarding the Direct Tax Vivad Se Vishwa Act, 2020 (VSV Act). Among other clarifications, SHM sought clarity on the status of the reassessment proceedings initiated against you, since the capital gains earned from the same transaction is being sought to be taxed both in the hands of SHM and you. In response dated 1 July 2020 to the said letter, it was clarified that the reassessment notice to you was issued to protect the interest of the Revenue. Further it was clarified that since the proceeding pertain to the same transaction and income from the transaction shall be taxed only once, the proceedings initiated against you shall be dropped, if SHM settled *the tax dispute under VSV Act. This is in line with the FAQ no 35 of the VSV Act. This clarification was issued with the prior approval of the Commissioner of Income Tax (IT & TP), Hyd.*

SHM has filed an application to settle the tax dispute under VSV Act and has paid appropriate taxes. Given that the appropriate taxes are paid on the transaction, the Assessing Officer is satisfied that no further taxes, interest or penalty, etc are owned or collectible from you in respect of the aforesaid transaction. Hence, the re-assessment proceedings initiated under Section 147 of the Act are hereby dropped."

5. Issue notice.

6. Mr.G.C.Srivastava, Advocate accepts notice on behalf of the Revenue Department. He states that the re-assessment proceedings initiated against the Wand Group as well as SeedWorks Singapore Pte Ltd. have already been dropped under Sections 147, 201(1) and 201(1A) of the Act respectively.

7. Keeping in view the aforesaid, the present writ petition and application are disposed of as satisfied. Needless to state that, if any cause of action arises in the future, the petitioner shall be at liberty to file appropriate proceedings in accordance with law.

8. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

SANJEEV NARULA, J

SEPTEMBER 16, 2020
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