IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 01.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.1684 of 2019
&
W.M.P.No.1888 of 2019

M/s.Sutherland Global Services Private Limited
Represented by its Authorised Signatory
Mr.V.N.Achutarama Gupta
No.45A, Velachery Main Road, Velachery
Chennai - 600 042
... Petitioner

Vs.

1. The Assistant Commissioner of Income Tax
Corporate Circle 6(2)
Room No.705, 7th Floor
No.121, M.G.Road, Nungambakkam
Chennai - 600 034

2. The Deputy Commissioner of Income Tax
Transfer Pricing Officer - 3(1)
Room No.508, 5th Floor, Tower-1-BSNL Building
16, Greams Road, Chennai - 600 006
... Respondent

Writ petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari calling for the records comprised in the order passed by the first respondent under Section 143(3) read with Section 147 and Section 253 of the Income-tax Act, 1961 ('the Act') for Assessment Year ('AY') 2008-09 in PAN:AAECS8093A dated December 31, 2018 and quash the same.

For Petitioner : Mr.N.V.Balaji

For Respondent : Mr.A.N.R.Jayapratap
Junior Standing Counsel

ORDER

Mr.N.V.Balaji, learned counsel on record for sole writ petitioner and Mr.A.N.R.Jayapratap, learned junior Standing Counsel on behalf of both the respondents are before this Virtual Court.

2. This Court is informed by learned counsel on both sides without any disputation or disagreement that the captioned writ petition has become infructuous subject only to any possible Special Leave petition in Hon'ble Supreme Court by the Revenue against order dated 23.09.2020 made in T.C.A.No.32 of 2019.

3. In the light of the aforementioned undisputed position, this Court deems it appropriate to not to dilate much on facts. However, for appreciating this order, it will suffice to say that the Assessee carried the assessment proceedings under 'the Income-tax Act, 1961 (43 of 1961)' (hereinafter 'IT Act' for the sake for brevity) to Income Tax Appellate Tribunal ('ITAT' for the sake of brevity); that the ITAT remanded the matter back to the Assessing Officer with directive to go into transfer pricing; that Assessee assailed this order of ITAT in aforementioned TCA No.32 of 2019 in this Court saying that transfer pricing issue does not arise in the case on hand; that a Hon'ble Division Bench of this Court by order dated 23.09.2020 sustained the submission of the Assessee and allowed the appeal; that therefore the reference to transfer pricing officer and the assessment pursuant to ITAT order now have no legs to stand; that this position is subject only to a possible Special Leave Petition by the Revenue against 23.09.2020 order in T.C.A.No.32 of 2019 as already alluded to supra.

4. This Court is also informed without disputation or disagreement that another writ petition which assailed the reference to transfer pricing officer was also disposed of by a Hon'ble single Judge preserving the rights of the writ petitioner in the following manner:

> 'The learned counsel for the petitioner made a submission that pursuant to the judgment of the Hon-ble Division Bench of this Court in T.C.A.No.32 of 2019 dated 23.09.2020, no further adjudication needs to be entertained in this writ petition.
>
> 2.In view of the above submission, this writ petition stands disposed of, permitting the petitioner to restore the writ petition, in the event of reversal of the said order by the Apex Court, if they have chosen

to do so. No costs. Consequently, connected miscellaneous petitions are closed.'

5. In the light of the narrative thus far, captioned writ petition is also disposed of as closed albeit preserving the rights of the writ petitioner in the same manner as done by the other Hon'ble single Judge in W.P.No.33935 of 2018 vide order dated 01.07.2021. Consequently, W.M.Ps are also closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

gpa

To

1. The Assistant Commissioner of Income Tax
   Corporate Circle 6(2)
   Room No.705, 7th Floor
   No.121, M.G.Road, Nungambakkam
   Chennai - 600 034

2. The Deputy Commissioner of Income Tax
   Transfer Pricing Officer - 3(1)
   Room No.508, 5th Floor, Tower-1-BSNL Building
   16, Greams Road, Chennai - 600 006

+1cc to M/s.N.V.Balaji, Advocate, S.R.No.44494

+1cc to M/s.A.P.Srinivas, Senior Standing Counsel, Advocate, S.R.No.43885

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KSM(CO)
SU(23/09/2021)