IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.Nos.2323 & 2448 of 2019
and
W.M.P.Nos.2601, 2716 & 2713 of 2019

(Through Video Conferencing)

M/s.Medical Research Foundation,
41, Sankara Nethralaya,
College Road, Nungambakkam,
Chennai - 600 006
Represented by its Vice President
Dr.Girish Shiva Rao. ... Petitioner in W.P.No.2323/19

M/s.Vision Research Foundation,
41/48, College Road,
Chennai 600 006
Represented by its Honorary Secretary
Dr.S.Bhaskaran. ... Petitioner in W.P.No.2448/19

Vs.

The Deputy Commissioner of Income Tax
(Exemptions), Chennai Circle,
Chennai - 600 034. ... Respondent in both W.Ps.

Writ Petitions filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the petitioners on the files of the respondent in PAN:AAATM5984H and in PAN:AAATV2725M respectively and quash the impugned orders passed u/s.143(3) in ITBA/AST/S/143(3)/2018-19/1014531982(1) dated 24.12.2018 for the Assessment Year 2016-17 and in ITBA/AST/S/143(3)/2018-19/1014313179(1) dated 15.12.2018 respectively for the Assessment Year 2016-2017.

For Petitioner : Mr.R.Venkatanarayanan
for M/s.Subbaraya Aiyar Padmanabhan
in both W.Ps.

For Respondent : Mrs.Hema Muralikrishnan
Senior Standing Counsel in both W.Ps.

COMMON ORDER

Heard the learned counsel for the petitioners and the learned Senior Standing Counsel for the respondent.

2. The petitioners have challenged the impugned Assessment Orders dated 24.12.2018 and 15.12.2018 respectively for the Assessment Year 2016-2017. The impugned orders have been challenged primarily on the ground that the impugned orders have been passed following the earlier Assessment Orders passed by the Assessing Authority for the Assessment Year 2015-2016 dated 28.12.2017.

3. Both the learned counsel for the petitioner and the learned Senior Standing Counsel for the petitioner submit that the aforesaid Assessment Orders dated 28.12.2017 for the Assessment Year 2015-2016 have been challenged before this Court in W.P.Nos.1293 & 1312 of 2018 respectively which came to be disposed by remanding the case back to the respondent to pass fresh orders by treating the said Assessment Orders as Show Cause Notices by an order dated 18.12.2019. The operative portion of the said order reads as under:-

> 11. Though the provisions of the Income Tax Act do not provide for the issuance of a show cause notice in all cases, in matters such as the present, where the Assessing Authority has formulated a specific issue based upon his understanding of a transaction, it is incumbent upon him to reveal his mind to the assessee, in order that the assessee is put to notice of the proposed basis of assessment and can reply/respond to the same. This not having been done, the impugned orders are set aside.
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> 12. The impugned orders of assessment in both Writ Petitions shall be treated as show cause notices and the petitioners will appear before the Assessing Officer on Tuesday, the 07 th January, 2020 at 10.30 a.m. without expecting any further notice in this regard along with a written reply as well as materials in support of their stand, if any.
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> 13. I consciously refrain from adverting to the merits of the impugned assessments in the light of my conclusion that the assessments have been completed in violation of principles of natural justice and all contentions are left open to be appreciated and adjudicated upon de novo and by way of speaking orders. Let this exercise be carried out and completed within a period of six weeks from 07.01.2020.

4. Since the Assessment Order dated 28.12.2017 for the Assessment Year 2015-2016 was set aside by this Court vide order dated 18.12.2019, content of which has been extracted above, based on which, the respective impugned Assessment Orders dated 24.12.2018 and 15.12.2018 have been passed for the Assessment Year 2016-2017, I am inclined to quash the impugned Assessment Orders dated 24.12.2018 and 15.12.2018 for the Assessment Year 2016-2017 and remit the case back to the respondent to pass speaking orders.

5. The impugned Assessment Orders which stand quashed in this Order shall be treated as Show Cause Notices. Both the petitioners are directed to file reply within a period of thirty (30) days from the date of receipt of a copy of this order.

6. The respondent is directed to pass appropriate orders in accordance with law along with the order to be passed for the Assessment Year 2015-2016. Needless to state, before passing such orders, both the petitioners shall be heard if requested.

7. These Writ Petitions stand disposed by way of remand. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

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To

The Deputy Commissioner of Income Tax
(Exemptions), Chennai Circle,
Chennai – 600 034.

+1cc to M/s.Subbaraya Aiyar Padmanabhan, Advocate SR.No.65872

+2ccs to Mrs.Hema Muralikrishnan, Advocate SR.No.65586, 65587

W.P.Nos.2323 & 2448 of 2019
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& 2713 of 2019

GJ(CO)
GMY(19/01/2022)