IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.08.2021

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No. 15862 of 2009
and
W.M.P. No. 1 of 2009

Sri Balaji Enterprises,
Represented by its Partner,
Mr.N.A.Rajendran,
No.31/2, Amman Koil Street,
Park Town,
Chennai - 600 003. ... Petitioner

..vs..

1. The Assistant Commissioner of Income Tax,
Circle - XII,
Chennai - 600 006.

2. The Union of India,
Ministry of Finance,
Represented by its Secretary,
Department of Revenue,
Central Secretariat, North Block,
New Delhi - 110 001.

3. The Central Board of Direct Taxes,
Represented by its Secretary,
Central Secretariat,
North Block,
New Delhi - 110 001. ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records in PAN No.AALFS6706L dated 28.11.2008 relating to the assessment year 2006-07 on the first respondent, quashing the same insofar as in the said proceedings the first respondent disallowed the various expenses claimed by the petitioner, invoking clause (ia) of Section 40(a) of the Income Tax Act on the ground that tax has not been deducted at source or paid over to the Government, in respect of the payments covered by such expenses within the time prescribed under sub-section (1) of Section 200 of the Income Tax Act.

For Petitioner : Mr.G.Baskar
For Respondents : Mrs.Hema Murali Krishnan
Senior Standing Counsel

O R D E R

The Writ Petitioner has filed two Writ Petitions. The Writ Petition in W.P. No. 15863 of 2009 is filed challenging the vires of the provisions of the Income Tax Act and admittedly, this Court upheld the validity of the provisions. Thus, the said Writ Petition deserves no merits adjudication as the provisions are upheld.

2. As far as the other Writ Petition filed in W.P. No. 15862 of 2009 is concerned, the petitioner has challenged the assessment order dated 28.11.2008 passed under Section 143(3) of the Income Tax Act for the assessment year 2006-07. This Court has granted liberty for the petitioner while upholding the provisions of the Act to prefer an appeal before the Competent Authority for the purpose of redressal of grievances in respect of the assessment orders passed. In other words, this Court refrained from adjudicating the issues on merits as raised by the petitioner.

3. In view of the said Judgment, the petitioner is at liberty to prefer an appeal before the Jurisdictional Appellate Authority challenging the assessment order dated 28.11.2008 for the assessment year 2006-07 within a period of four weeks from the date of receipt of a copy of this order. In the event of filing any such appeal, the Appellate Authority shall condone the delay if any and entertain the appeal and pass orders on merits and in accordance with law by affording an opportunity to the writ petitioner and by following the procedures as contemplated.

4. With these directions, this Writ Petition stands disposed of. However, the shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vji

To

1. The Assistant Commissioner of Income Tax,
   Circle - XII,
   Chennai - 600 006.

2. The Secretary,
   The Union of India,
   Ministry of Finance,
   Department of Revenue,
   Central Secretariat, North Block,
   New Delhi - 110 001.

3. The Secretary,
   The Central Board of Direct Taxes,
   Central Secretariat,
   North Block,
   New Delhi - 110 001.

+1cc to Mrs.Hema Murali Krishnan, Advocate, S.R.No.43249
+1cc to Mr.G.Baskar, Advocate, S.R.No.43203

W.P. No. 15862 of 2009and
W.M.P. No. 1 and 2009

AK(CO)
CT(17/09/2021)