IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2021

CORAM

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

W.P. Nos. 29292 and 29293 of 2004 and
W.M.P. Nos. 35557 to 35560 of 2004

Harris Zain ...Petitioner in W.P. No. 29292 of 2004

Rubab Harris ...Petitioner in W.P. No. 29293 of 2004

..vs..

1. The Income Tax Settlement Commission,
   Additional Bench,
   488-489, Anna Salai,
   Chennai - 600 035.

2. The Union of India,
   Represented by The Chairman,
   Central Block of Direct Taxes,
   North Block, New Delhi.

3. The Commissioner of Income Tax,
   Central, Cochin.

4. The Assistant Commissioner of Income Tax,
   Central Circle-I (3), Ernakulam.

...Respondents in both W.Ps'

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records on the files of the first respondent herein in settlement Application No.13/CHN/4/95/IT and Application No.682/56/97-IT dated 24.03.2004 and quash the same.

For Petitioner in both W.Ps' : N.Prasad

For Respondents in both W.Ps' : Settlement Commission - R1
Mrs.Hema Muralikrishanan
Senior Standing Counsel for R2
Mr.A.N.R.Jayaprathap
Junior Standing Counsel for R3&R4

COMMON ORDER

The Writ Petitions are filed challenging the orders passed by the Income Tax Settlement Commission. The Preliminary objection raised regarding the maintainability of the Writ Petitions is that the petitioners as well as the Settlement Commission are not falling with the territorial jurisdiction of the High Court of Madras and therefore, the Writ Petitions are not entertained. On the similar issue, the Hon'ble Division Bench of this Court in W.A. No. 717 of 2020 passed an order on 14.09.2020 and the relevant paragraphs are extracted hereunder:

> "7. To sum up the legal position as referred to in the above decision, the doctrine of dominus litis or doctrine of situs of the appellate Tribunal do not go together; and a dominus litis indicates that the suitor has more than one option, whereas the situs of an Appellate Tribunal refers to only one High Court wherein the appeal can be preferred. Further, it was pointed out that situs of a Tribunal may vary from time to time and it could be Delhi or some other place or Chennai as in the case on hand and the determination of jurisdiction of the High Court should be based on the relevant Statute and that the Parliament never contemplated to have a situation of this nature and if the cause of action doctrine is given effect to, invariably more than one High Court may have jurisdiction, which is not contemplated.
>
> 8. As noted above, the appellant is an assessee on the file of the third respondent namely the Deputy Commissioner of Income Tax, Company Circle 4(1)(Inv.), IV Floor, Kendriya Sadan, Koramangala, Bangalore. The Appellate Authority, before whom the assessee filed the apppeal is the second respondent herein namely the Commissioner of Income Tax, Bangalore-III, Bangalore. Therefore, the learned Single Judge was justified in rejecting the writ petition on the ground that due to lack of territorial jurisdiction, the order passed by the Settlement Commission did not call for interference.
>
> 9. In the light of the above, the writ appeal is dismissed leaving it open to the

appellant to move the High Court of Karnataka if they are so advised. It is also made clear that the above writ appeal has been dismissed solely on the ground of lack of territorial jurisdiction to entertain the appeal / writ petition and the merits of the case of the appellant have not been dealt with in this judgment. No costs. Consequently, the connected CMP is also dismissed."

2. In view of the principles laid down in the Judgment cited supra, the Writ Petitions stand dismissed. Leaving it open to the petitioners to move the High Court of Kerala having jurisdiction if they are so advised. It is made clear that the Writ Petitions have been dismissed solely on the ground of lack of territorial jurisdiction to entertain the Writ Petitions and the merits of the case of the petitioners have not been dealt with.

3. Accordingly, the Writ Petitions stand dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vji / nti

To

1. The Income Tax Settlement Commission,
   Additional Bench,
   488-489,
   Anna Salai,
   Chennai - 600 035.

2. The Chairman,
   Union of India,
   Central Block of Direct Taxes,
   North Block,
   New Delhi.

3. The Commissioner of Income Tax,
   Central,
   Cochin.

4. The Assistant Commissioner of Income Tax,
   Central Circle-I (3),
   Ernakulam.

+1cc to M/s.Hema Muralikrishanan, Advocate, S.R.No.44330
+1cc to Mr.N.Inbarajan, Advocate, S.R.No.44345

W.P. Nos. 29292 and 29293 of 2004
and
W.M.P. Nos. 35557 to 35560 of 2004

LN[co]
NSK 24/09/2021