IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2021

CORAM

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

W.P.No.25120 of 2009
and M.P.Nos.1 & 2 of 2009

M/s.Pentamedia Graphics Ltd.,
Rep.by its Whole Time Director,
Mr.V.Venkataraman, T2 III Floor,
Nutech Plaza 73, Arcot Road, Kodambakkam,
Chennai - 600 024.
(Petitioner amended vide order dt. 12.07.2021 made in W.M.P.No.14687/2021 in W.P.No.25120/2009)

... Petitioner

Vs.

1.Deputy Commissioner of Income-Tax,
Central Cirlce III (4),
121, Nungambakkam High Road,
Chennai - 600 034.

2.Assistant Commissioner of Income Tax,
Company Circle V (2),
4th Floor, Aayakar Bhawan, 121,
Nungambakkam High Road,
Chennai - 600 034.

3.Income Tax Officer (OSD),
Company Circle V (2),
121, Nungambakkam High Road,
Chennai - 600 034.

4.Tax Recovery Officer - VIII,
Company Range - V,
Main Building, Room No.403, IV Floor,
121, M.G.Road, Nungambakkam, Chennai - 600 034.

5.M/s.Olympic Cards Ltd.,
195, N.S.C.Bose Road,
Chennai - 600 001.

6.Mr.John Vairamuthu

7.M/s.Naya Dreams Entertainment,
3rd floor, Sri Parameshwar Plaza,
No.11, Dilsukhnagar,
Hyderabad - 500 036.

8.Sri Victor Samairaj (Franchise),
St.Joseph, I.I.T.Campus,
Near Royal Theatre, Opposite St.Michael's
Higher Secondary School, Big Bazaar Street, Town Hall Road,
Coimbatore - 641 001.

9.M/s.Ogee Partnership Groups,
A.F.Complex, Opp.Priyadarshini Theatre,
Palakkad - 678 001,
Kerala State.

10.M/s.East End Technologies Pvt.Ltd.,
Bhayan Bhavan, Ground Floor,
Bhubaneswar - 751 001.

11.M/s.City Media Labs,
102, Maitruvanam Muda Complex,
Software Technology Park of India,
Hyderabad - 500 038.

12.M/s.Annai Computer Academy,
St.Joseph, I.I.T. Campus,
Big Bazaar Street, Town Hall Road,
Coimbatore - 641 001.

13.M/s.Efficacy Technologies Ltd.,
No.25, First Main Road,
United India Colony,
Kodambakkam, Chennai - 600 024.

14.M/s.Sterling Holiday Resorts Ltd.,
No.25, First Main Road,
United India Colony,
Kodambakkam, Chennai - 600 024.

15.M/s.Liveccas Realty Pvt.Ltd.,
No.25, First Main Road,
United India Colony,
Kodambakkam, Chennai - 600 024.

16.M/s.Pentamedia Graphics Ltd.,
No.25, First Main Road,
United India Colony,
Kodambakkam, Chennai - 600 024.

17.The Manager,
Kotak Mahindra Bank,
Anna Salai, Chennai - 600 002.

18.The Manager,
H.D.F.C Bank,
Anna Salai, Chennai - 600 002.

19.The Manager,
State Bank of India,
Kodambakkam Branch, Chennai - 600 024.

20.The Manager,
Karur Vysya Bank,
Kodambakkam Branch,
Chennai - 600 024.

21.The Branch Manager,
IDBI Bank,
No.44/86, 4th Avenue,
Ashok Nagar, Chennai - 600 083.

22.The Branch Manager,
Corporation Bank, George Town Branch,
101, Armenian Street,
Chennai - 600 001.

23.The Branch Manager,
Dhanalakshmi Bank, Mount Road Branch,
Om Sakthi Towers, First Floor,
New No.163, Anna Salai,
Chennai - 600 002.

24.The Branch Manager,
Axis Bank, Chennai Main Branch,
No.82, Dr.Radhakrishna Salai,
Mylapore, Chennai - 600 004.

25.The Branch Manager,
Oriental Bank of Commerce,
R.K.Salai Branch,
63, Dr.Radhakrishna Salai,
Mylapore, Chennai - 600 004. ... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India to issue of Writ of Mandamus, directing the 2nd and 3rd respondents to determine the refunds due to the petitioner in respect of Assessment Years 1998 - 99 to 2006 - 07 and grant to the petitioner the said refunds forthwith together with interest thereon.

For Petitioner : Mr.G.Baskar

For Respondents:M/s.Hema Muralikrishnan
Senior Standing Counsel
(Income Tax) for R1 to R4
Mrs.S.Meenal for R5
Mr.K.Sukumaran for R13
Mr.G.Sundaram for R14
Mr.S.Sethuraman for R22
No appearance for R8 to R12, R16 to R21 and R23 to R25
Batta due for R6, R7 & R15

O R D E R

The relief sought for in the present writ petition is to direct the respondents 2 and 3 to determine refunds due to the petitioner in respect of Assessment Years 1998 - 99 to 2006 - 07.

2. The petitioner is a Company registered under the Companies Act. The petitioner Company is a 100% Export Oriented Unit registered under the STP/EHTP Scheme, entitled for exemption under Section 10 A / Section 10 B of the Income Tax Act, till 2011.

3. The learned counsel for the petitioner made a submission that during the pendency of the writ petition in the year 2009, the petitioner Company was amalgamated in Pentamedia Graphics Limited.

4. The learned counsel for the petitioner referred the documents filed by the respondents, made a submission that the respondent Authorities have confused the petitioner Company along with the amalgamated Company and they have not given correct details regarding the refund for which the petitioner is entitled. The petitioner states that the conclusion regarding the refund due to the petitioner is not even properly made by the Authorities. Thus, the petitioner is constrained to move the present writ petition.

5. The learned Senior Standing Counsel appearing on behalf of the respondents 1 to 4, made a submission that the respondents had requested the assessee to furnish information whether there were any rectification petitions pending in respect of the assessment years from 1999 - 00, 2000 - 01 & 2006 - 07. The writ petition was filed in the year 2009. The counter filed by the respondents would reveal that certain adjustments and other particulars were clubbed from the files and those particulars are provided. However, the learned counsel for the

petitioner reiterated that quantum of refund is to be determined with reference to the payment made by the petitioner.

6. This Court is of the considered opinion that the refund is sought for by the petitioner with reference to the assessment years 1998 - 99 to 2006 - 07. The writ petition was filed in the year 2009. The writ petition itself is taken up for hearing after a lapse of 12 years. Thus, the files available with the Department is to be verified for the purpose of ascertaining the facts as well as the refund of dues entitled by the petitioner. Such an exercise is to be done by the Authorities Competent with a co-operation of the petitioner. On account of long lapse of time, parties have to co-operate with the authorities for the purpose of sorting out those disputed issues.

7. The High Court has to consider the practical difficulties in respect of such old files and its availability or otherwise. Thus, the Authority requires some assistance from the assessee also for the purpose of getting the details and to form an opinion and determine the refund, if any due to be paid. Such an exercise is to be done by the parties.

8. This being the factum, the petitioner is directed to produce the relevant records within a period of four weeks from the date of receipt of a copy of this order. On receipt of such documents, the respondents / concerned Assessing Officer are directed to verify the same by providing a personal hearing to the petitioner or its authorities in order to cull out the truth with reference to the issues raised by the petitioner and if necessary, allow the petitioner to peruse the files and accordingly take a decision and inform the same to the petitioner in the manner known to law within a period of three months thereafter.

9. With these directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

Pns

To

1.Deputy Commissioner of Income-Tax,
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Main Building, Room No.403, IV Floor,
121, M.G.Road, Nungambakkam, Chennai - 600 034.

+1cc to Mr.G.Baskar, Advocate, S.R.No. 32722
+1cc to Mr.Hema Muralikrishnan, Advocate, S.R.No. 32559

W.P.No.25120 of 2009
and M.P.Nos.1 & 2 of 2009

NK(CO)
GN(20/10/2021)