IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2021

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.2520 of 2012
and
M.P.No.1 of 2012

M/s.Pentamedia Graphics Limited,
Represented by its Chairman & CEO,
Dr.V.Chandrasekaran,
'TAURUS', No.25, First Main Road,
United India Colony,
Kodambakkam,
Chennai 600 024. ..Petitioner

Vs.

The Deputy Commissioner of Income Tax,
Media Circle-I,
Room No.311, New Block III, 3rd Floor,
121, Mahatma Gandhi Road,
Nungambakkam,
Chennai 600 034. ..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records in PAN No./GIR No.AAACP1647B dated 28.12.2011, relating to the Assessment Year 2004-05, quash the same.

For Petitioner : Mr.G.Baskar

For Respondent : Mr.D.Prabhu Mukunth Arunkumar
Junior Standing Counsel for IT

ORDER

The re-assessment order dated 28.12.2011, passed under Section 143 (3) read with Section 147 of the Income Tax Act, 1961 (hereinafter, referred to as, 'the Act') is under challenge in the present Writ Petition.

2.The petitioner is a Company registered under the provisions of the Indian Companies Act, 1956. The petitioner states that they have filed return of income for the Assessment Year 2004-05. The order of assessment was passed. The petitioner claimed exemption in relation to the income derived from the export of computer software, under the provisions of Section 10 B of the Act. The learned counsel for the petitioner made a submission that the books of accounts, details and informations were furnished and an assessment order was passed. However, the assessment was reopened under Section 147 of the Act and notice was issued under Section 148 of the Act on 15.12.2005. The petitioner submitted a request letter for furnishing reasons. The reasons were furnished and re-assessment order was passed. Thereafter, again re-assessment order was reopened and a notice was issued under Section 148 on 21.03.2011. The petitioner submitted a letter for furnishing the reasons and the reasons were furnished and thereafter, the petitioner submitted their objections for the reasonings. The grievance of the writ petitioner is that the objections submitted by the petitioner was not disposed of on merits and the impugned assessment order had been passed directly in violation of the directives issued by the Hon'ble Supreme Court of India in the case of GKN Drive shafts India Ltd., Vs. ITO reported in 259 ITR 19 (SC).

3.The learned Junior Standing Counsel appearing on behalf of the respondent, though contested the case, was unable to establish that the objections submitted by the writ petitioner was disposed of on merits, as per the directives of the Hon'ble Apex Court of India. This being the lapses committed by the authorities competent, the matter is to be remanded back for fresh consideration and for the purpose of disposing of the objections filed by the writ petitioner on 26.12.2011.

4.Accordingly, the impugned assessment order dated 28.12.2011, passed by the respondent is quashed and the matter is remanded back for fresh consideration. The respondent is directed to consider the objections filed by the writ petitioner, on merits and dispose of the same within a period of six weeks from the date of receipt of a copy of this order and thereafter, proceed with the process of re-assessment, by following the procedures, as contemplated.

Accordingly, the Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

gsa

To

The Deputy Commissioner of Income Tax,
Media Circle-I,
Room No.311, New Block III, 3rd Floor,
121, Mahatma Gandhi Road,
Nungambakkam,
Chennai 600 034.

+1cc to Mr.Hema Muralikrishnan, Advocate, S.R.No.37134
+1cc to M/s.G.Baskar, Advocate, S.R.No.37191

W.P.No.2520 of 2012

SB(31/08/2021)