IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 15.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.NO.12701 OF 2021
&
W.M.P.NOS.13494 AND 13497 OF 2021

M/s. Ford India Private Limited
Represented by its Director
Mr.G.Karthik Swaminath, Aged 47 years
S.P.Koil Post, Maraimalai Nagar
Chengalpattu, Tamil Nadu
India-603 204 ... Petitioner

Vs.

1. The Income Tax Officer
National e-Assessment Centre
Income Tax Department
Ministry of Finance
Room No.401, 2nd Floor, E-Ramp
Jawaharlal Nehru Stadium
New Delhi - 110 032

2. The Income Tax Officer
Circle 1, LTU Chennai
Main Building, 4th Floor
Aayakar Bhavan
No.121, M.G.Road
Nungambakkam, Chennai - 600 034

3. The Secretariat
Dispute Resolution Panel - 2
'A' Wing, 4th Floor
Kendriya Sadan, Koramangala
Bangalore - 560 034 ... Respondents

Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records in DIN & Document No.ITBA/AST/S/143(3)/2021-22/1032928501(1) dated 15.05.2011 for the Assessment Year 2017-18 on the file of the 1st Respondent and quash the same and consequently direct the third respondent to accept the objections filed under Section 144C dated 28.08.2021 and issue directions thereon.

For Petitioner : Ms.Kamakshi
for Mr.R.Sandeep Bagmar

For Respondents : Ms.Hema Muralikrishnan
Senior Standing Counsel

ORDER

Ms.Kamakshi, learned counsel representing the counsel on record for writ petitioner and Ms.Hema Muralikrihsnan, learned Senior Standing Counsel for all the three respondents are before this Virtual Court.

2. Though captioned writ petition is listed under the cause list caption 'FOR EXTENSION OF INTERIM ORDERS' with the consent of learned counsel on both sides, main writ petition is taken up as the matter turns on an extremely narrow compass.

3. An Assessment Order dated 15.05.2021 made under Section 143 of 'The Income-tax Act, 1961 (43 of 1961)' ['IT Act' for the sake of convenience and clarity] has been called in question.

4. The short point is, writ petitioner has approached the third respondent and though writ petitioner has approached the third respondent, which shall hereinafter be referred to as 'DRP' denoting 'Dispute Resolution Panel' for the sake of convenience, impugned order came to be passed.

5. Learned Revenue counsel, adverting to Paragraph 4 of the counter affidavit submits that if the petitioner had informed the first respondent within 30 days period that it intends to file objections before the DRP, first respondent would have awaited the directions of DRP. To be noted, this is a requirement under Section 144C(13) of IT Act. Further to be noted, directions of DRP are under 144C(5)

6. Aforementioned, Section 144C(5) and 144C(13) read as follows:

' Section 144C(5)
144C (1)
(2).....
(a).....
(b).....
(i) .....
(ii) .....
(3) .....
(a).....
(b).....
(4).....

(a).....
(b).....
(5) The Dispute Resolution Panel shall, in a case where any objection is received under sub-section (2), issue such directions, as it thinks fit, for the guidance of Assessing Officer to enable him to complete the assessment.'

'' Section 144C(13)
144C.Reference to dispute resolution panel.
(1) ......

(2) ......

(a) ......

(b) ......

(i)......

(ii) ......

(3) ......

(a) ......

(b) ......

(4) ......

(a) ......

(b) ......

(5) ......

(6) ......

(a) ......

(b) ......

(c) ......

(d) ......

(e) ......

(f) ......

(g) ......

(7) ......

(a) ......

(b) ......

(8) ......

(9) ......

(10) ......

(11) ......

(12) ......

(13) Upon receipt of the directions issued under sub-section (5), the Assessing Officer shall, in conformity with the directions, complete, notwithstanding anything to the contrary contained in section 153 [or section 153B], the assessment without providing any further opportunity of being heard to the assessee, within one month from the end of the month in which such direction is received.'

7. Learned Revenue counsel very fairly submits that the period of limitation stood extended owing to the Covid-19 situation and in the light of the typed-set of papers forming part of the case file, it is clear that the petitioner has gone before the DRP. Therefore, the first respondent has to await directions from DRP as the objections of the writ petitioner are pending with DRP.

8. The above short point and the fair stand of the learned Revenue counsel draws the curtains on caption writ petition. Therefore, the following order is passed:

a) The impugned Assessment Order being 15.05.2021 bearing reference DIN & Document No.ITBA/AST/S/143(3)/2021-22/1032928501(1) for Assessment Year 2017-18 qua writ petitioner is set aside solely on the ground that objections before DRP are pending and directions of DRP under 144C(5) has to be awaited under 144C (13).

b) Though obvious it is made clear that this Court has expressed no opinion or view on the merits of the matter;

c) On DRP issuing directions, the first respondent shall proceed with the assessment de novo on its own merits, in accordance with law and complete the exercise as expeditiously as the business of the first respondent would permit.

d) Though obvious, it is made clear that the above exercise will be uninfluenced by any process or trappings of observations on merits, which may come across as having been made in this order.

Captioned writ petition is disposed of with the above directives. Consequently, connected WMPs are disposed of as closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

gpa

To

1. The Income Tax Officer
National e-Assessment Centre
Income Tax Department
Ministry of Finance
Room No.401, 2nd Floor, E-Ramp
Jawaharlal Nehru Stadium
New Delhi – 110 032

2. The Income Tax Officer
Circle 1, LTU Chennai
Main Building, 4th Floor
Aayakar Bhavan
No.121, M.G.Road
Nungambakkam, Chennai – 600 034

3. The Secretariat
Dispute Resolution Panel - 2
'A' Wing, 4th Floor
Kendriya Sadan, Koramangala
Bangalore - 560 034

+1cc to Mr.Hema Muralikrishnan, Advocate, S.R.No.46831
+1cc to Mr.Sandeep Bagmar, Advocate, S.R.No.47319

W.P.No.12701 of 2021&
W.M.P.Nos.13494 and 13497 of 2021

PMK(CO)
PM/06/10/2021