IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.30770 of 2014
and
M.P.No.1 of 2014

M/s.Star Health and Allied Insurance Co.Ltd,
No.1, Star Insurance Towers, New Tank Street,
Valluvar Kottam High Road, Nungambakkam,
Chennai - 600 034.
Rep by its Chief Financial Officer,
Mr.S.Ramaswamy,
Son of Mr.S.R.Srinivasan ... Petitioner

Vs.

The Deputy Commissioner of Income Tax,
Company Circle VI(4),
Room No.705, 7th Floor, Vanaparathy Block,
121, Mahatma Gandhi Road,
Chennai - 600 034.
... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, to call for the records in Misc/Co.Cir.VI (4)/2014-15 dated 31.10.2014 on the file of the Respondent, relating to Assessment Year 2009-10, quash the same.

For Petitioner : Mr.M.P.Senthilkumar

For Respondent : Mr.A.P.Srinivas,
Senior Standing Counsel

O R D E R

In this Writ Petition, the petitioner has challenged the order in reply to objection to reopening of Assessment vide impugned order dated 31.10.2014 bearing reference No.Misc/Co.Cir VI(4)/2014-15 under Section 147 of the Income Tax Act, 1961. This order was passed in light of the decision of the Hon'ble Supreme Court in the case of GKN Driveshafts (India) Ltd Vs. ITO 259 ITR 19.

2.The petitioner had earlier challenged the scrutiny Assessment Order dated 27.12.2011 for the Assessment Year 2009-10 on the file of the respondent, herein, in W.P.No.3582 of 2012. By an order dated 17.02.2020, this Court had passed the following order:-

> ''Both the counsel fairly submits that the issue at the moment is squarely covered against the Revenue in terms of the Division Bench of the Delhi High Court in the case of Oriental Insurance Co.Ltd Vs.DCIT (2018) 407 ITR 658 (Del) which has been followed by this Court.
>
> 2.The learned counsel for the Revenue further submits that the Revenue has preferred SLP before the Hon'ble Supreme Court against the above decision of the following three SLPs.
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> 3.Since the issue is at the moments covered in favor of the petitioner, and considering the fact that the issue is also pending before the Hon'ble Supreme Court, I am inclined to set aside the impugned order and remit the case back to the respondent to pass a fresh order. The respondent is directed to await for the final decision of the Hon'ble Supreme Court in the three mentioned appeals i.e., C.A.No.007580/2019; C.A.No.007683 of 2019 and C.A.No.007685 of 2019.
>
> 4.Accordingly, the impugned orders are set aside and the cases are remitted back to the respondent to pass appropriate order after the Hon'ble Supreme Court gives its decision on the subject.
>
> 5.Accordingly, the Writ Petition stands disposed. No cost. Consequently, connected Miscellaneous Petitions are closed.''

3.Since for computation of book profit, the case had been remitted back to the Assessing Officer by an order of this Court on 17.02.2020 in W.P.No.3582 of 2015, the proceedings for re-assessment do not survive for consideration for the present.

4.Accordingly, the present Writ Petition stands disposed by quashing the impugned order by remitting the case back to the respondent to pass a fresh order after the Hon'ble Supreme Court gives its final verdict in C.A.No.007580/2019; C.A.No.007683 of 2019 and C.A.No.007685 of 2019 filed by the respondent Income Tax Department. No costs. Consequently, connected

Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/
Sub Asst. Registrar

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To

The Deputy Commissioner of Income Tax,
Company Circle VI(4),
Room No.705, 7th Floor, Vanaparathy Block,
121, Mahatma Gandhi Road,
Chennai - 600 034.

+1 cc to M/s.N.Muthkumar Advocate sr4873
+1 cc to M/s.A.P.Srinivas Advocate sr 5054

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rr(co)
aa18/03/2021