



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.19857 of 2021
and

WMP.No.21117 of 2021

(Through Video Conferencing)

B.Muralidhar

...Petitioner

vs.

1. The Principal Commissioner of Income Tax-1,
Room No.701, 7th Floor, New Block,
121, M.G.Road, Chennai 600 034.

2. The Deputy Commissioner of Income Tax,
Corporate Circle-I, Room No.611,
Wanaparthi Block, 6th Floor,
121, M.G.Road, Chennai 600 034.

3. The Tax Recovery Officer,
PCIT-1, Chennai 600 034.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records of the petitioner on the file of the 1st respondent in PAN: ACPPB7239P and quash the impugned order passed by the 1st respondent under Section 264 of the Income Tax Act, 1961 dated 27.02.2020, in C.No.217/U/S.264/PCIT-1/2019-20 for the Assessment Years 1999-00 to 2006-07.

For Petitioner : Mr.Venkatanarayanan for
M/s.Subbaraya Aiyar Padmanabhan
and Ramani

For Respondents : Mrs.Hema Muralikrishnan
Senior Standing Counsel.



ORDER

The petitioner was a Director of "Kay & Emm Projects and Technologies Private Limited" which was later changed to "K and M projects and Technologies Private Limited" and further became a Public Limited company and changed its name to "A and G projects and Technologies Limited".

2. The petitioner was issued with a Show Cause Notice under Section 179 of the Income Tax Act, 1961 to show cause as to why the petitioner should not be held liable to pay for the arrears of tax due in respect of the Company in which the petitioner was earlier a Director. It was specific case of the petitioner that he had resigned from the post of Director and worked as a consultant during the period in dispute.

3. An order came to be passed on 24.01.2019 by the second respondent holding that the petitioner was jointly and severally liable to pay tax due of the said company "A & G Projects and Technologies Limited" previously known as "Kay & Emm Projects and Technologies Private Limited."

4. The petitioner thus challenged the said order in W.P.No.23222 of 2019. Earlier W.P.No.23222 of 2019 was disposed by an order dated 08.08.2019 by giving liberty to the petitioner to work out the remedy under Section 264 of the Income Tax Act, 1961 which has now culminated in the impugned order dated 27.02.2020.

5. Heard the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents.

6. Since several disputed question of facts are involved as to whether Section 179 of the Income Tax was applicable or not and since before passing the impugned order dated 27.02.2020, the 1st respondent has not discussed those aspects, the case is liable to be remitted back to the 1st respondent to pass a speaking order afresh.

7. Therefore, the impugned order passed by the 1st respondent dated 27.02.2020 is hereby quashed and the case is remitted back to the 1st respondent to pass a speaking order on merits and in accordance with law by considering the submission of the petitioner as to non applicability of Section 179 of the Income Tax Act, 1961, within a period of forty five days from the date of receipt of a copy of this order.

8. Needless to state, before passing such order, the petitioner shall be heard in person and/or through an authorised



representative through Video Conference, in case the petitioner desires for a personal hearing, before such an order is passed by the 1st respondent.

9. This writ petition stands allowed with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

kkd

To

1. The Principal Commissioner of Income Tax-1,
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2. The Deputy Commissioner of Income Tax,
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121, M.G.Road, Chennai 600 034.
3. The Tax Recovery Officer,
PCIT-1, Chennai 600 034.

+1cc to M/s.Subbaraya Aiyar, Advocate, S.R.No.62511
+1cc to Mrs.Hema Muralikrishnan, Senior Standing Counsel,
S.R.No.62093

W.P.No.19857 of 2021

PL[co]
NSK 23/12/2021