IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No. 15937 of 2014 and
W.M.P. No. 1 of 2014

M/s.Vedanta Limited,
Represented by its AGM - Finance,
Mr.Rajkumar Basak, Sterlite Copper,
SIPCOT Industrial Complex,
Madurai Bye Pass Road, T.V.Puram Post,
Tuticorin, Tamil Nadu - 628 002. ...Petitioner

(Cause title amended vide order dated 16.04.2021 made in W.M.P. No. 730 of 2020 in W.P. No. 15937 of 2014 by SMSJ)

-vs-

1. Joint Commissioner of Income Tax,
Company Range VI, 708, Wanaparthy Block,
121, Mahatma Gandhi Road,
Nungambakkam, Chennai - 600 034.

2. The Commissioner of Income Tax - III,
121, Mahatma Gandhi Road,
Chennai - 600 034. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari calling for the records in PAN AABCS4955Q dated 02.05.2014 relating to assessment year 2010-11 on the file of the first respondent and quash the same.

For Petitioner : Mr.R.V.Easwar
Senior Counsel
assisted by Mr.M.P.Senthil Kumar

For Respondents : Mr.A.P.Srinivas
Senior Standing Counsel for IT

O R D E R

The assessment order dated 02.05.2014 relating to the assessment year 2010-11 is under challenge in the writ on hand.

2. The petitioner is a Company engaged in the manufacture and sale of non-ferrous metals and telephone cables having its registered office at SIPCOT Industrial Complex, Madurai By Pass Road, TV Puram, Tuticorin in the State of Tamil Nadu. The petitioner Company is an income tax assessee. The petitioner Company filed its Income Tax Return for the assessment year 2010-11 and the return was taken up for scrutiny proceedings and by following the procedures, the draft assessment order was passed.

3. The learned Senior counsel appearing on behalf of the petitioner made a submission that the draft assessment order was challenged by the petitioner in W.P. No. 11462 of 2014. The petitioner had raised objections and the Writ Petition was pending. During the relevant point of time, when the Writ Petition was posted for hearing on 14.05.2014, the respondents passed the impugned assessment order on 02.05.2014 under Section 143(3) and 92CA r.w Section 144C of the Income Tax Act, 1961. Challenging the said final assessment order, the present Writ Petition is filed.

4. The learned Senior counsel drawn the attention of this Court to the order passed by this Court in W.P. No. 11462 of 2014 filed by the petitioner challenging the draft assessment order dated 21.03.2014. This Court recording the fact that the final assessment order has been passed before the Writ Petition was taken up for hearing passed the following orders, which reads thus:

> "6. Though Dr.Anita Sumanth, learned counsel appearing for the petitioner sought for a direction to protect the interest of the writ petitioner by granting an interim stay, of the assessment of the impugned proceedings, till the disposal of the stay application to be filed before the Appellate Authority, this Court is not inclined to grant any such relief.
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> 7. Learned counsel appearing for the petitioner submitted that the time spent during the pendency of this writ petition, after the issuance of the assessment order dated 02.05.2014 may be directed to be excluded. The prayer appears to be reasonable. Accordingly, liberty is given to the petitioner to file a statutory appeal as submitted, within 30 days from the date of receipt of a copy of this order.

> 8. Accordingly, this writ petition is dismissed as infructuous with the above direction. No costs. Consequently, the connected miscellaneous petition is closed."

5. Considering the fact that, this Court has already taken note of the fact regarding the final assessment order which is impugned in the present Writ Petition and granted liberty to the petitioner to approach the Appellate Authority for redressal of the grievances, this Court is of the opinion that, only time is to be extended enabling the petitioner to file an appeal by availing the procedures contemplated. The liberty had already been granted by this Court in W.P. No. 11462 of 2014. However, the Writ Petition is pending before this Court. Thus, this Court is inclined to grant further time to the writ petitioner to prefer an appeal before the jurisdictional Appellate Authority for the redressal of their grievances.

6. Accordingly, the petitioner is at liberty to file an appeal before the competent authority within a period of four weeks from the date of receipt of a copy of this order and in the event of filing any such appeal by the petitioner, the competent authority shall condone the delay if any and dispose of the appeal on merits and in accordance with law and by affording an opportunity to the writ petitioner by following the procedures as contemplated.

7. With these directions, this Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vji

To
1. The Joint Commissioner of Income Tax,
Company Range VI,
708, Wanaparthy Block,
121, Mahatma Gandhi Road,
Nungambakkam,
Chennai - 600 034.

2. The Commissioner of Income Tax - III,
121, Mahatma Gandhi Road,
Chennai - 600 034.

+1 Cc to M/s,G.Baskar, Advocate, Sr.No. 39581.

W.P. No. 15937 of 2014
and
W.M.P. No. 1 of 2014

AD(CO)
LS(08/09/2021)