IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

W.P.Nos.28106 & 28110 of 2018

M/s.Tranz India Corporation,
Rep., by its Managing Partner,
V.Mohanraj,
Having Office at 204, Sanjay Raaj Tower,
Tatabad, 100 Feet Road,
Coimbatore-641 012. .. Petitioner in both W.Ps.

-vs-

1.The Assessing Officer,
TDS CPC, Ayakar Bavan,
Sector-3, Vaishali,
Ghaziabad, UP-201 010.

2.Commissioner of Income Tax (TDS),
Income Tax Department,
Office of the Commissioner of Income Tax (TDS),
No.1510, 1st Floor, May Flower, Midcity,
Trichy Road, Coimbatore. .. Respondents in both W.Ps.

Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to the orders passed by the 2nd respondent in C.Nos.10(52).264/CIT(TDS)/CBE/2015-16 and 10(53)/264/CIT(TDS)/CBE/2015-16 dated 30.03.2016, quash the same.

For Petitioner (In both W.Ps.)	:	Mr.Niranjan Rajagopalan for M/s.G.R.Associates
For Respondents (In both W.Ps.)	:	Mr.S.Rajesh, Junior Standing Counsel

COMMON ORDER

The learned counsel for the petitioner contended that there is a dispute regarding the calculation of interest with reference to the relevant duration.

2.The learned counsel for the petitioner solicited the attention of this Court to the calculations made with reference to the provisions of the Income Tax Act, 1961 (hereinafter referred to as "the IT Act"), and submitted that the calculations are not in consonance with and in accordance with law. However, the said calculations with reference to the records cannot be adjudicated in a writ proceedings under Article 226 of the Constitution of India. The interest calculations and penalty are to be calculated with reference to the documents available by the competent authority.

3.The learned Junior Standing Counsel appearing on behalf of the respondent-Department made a submission that the petitioner is bound to approach the appellate authority by way of appeal under Section 246A of the IT Act. It is submitted that the petitioner has erroneously filed a revision under Section 264 of the IT Act, which was considered on merits, but the petitioner could not able to get appropriate relief. Thus, the petitioner is constrained to move the present writ petition.

4.The learned counsel for the petitioner as well as the learned Junior Standing Counsel for the respondents made a submission that proper course would be to prefer an appeal under Section 246A of the IT Act before the Commissioner of Income Tax (Appeals) in the format prescribed.

5.This Court is of the considered opinion that all such disputed facts are to be adjudicated with reference to the documents and evidences made available and therefore, the petitioner is granted liberty to approach the appellate authority under Section 246A of the Act by filing appropriate application.

6.In view of the facts and circumstances, the following orders are passed:-

(i) The petitioner is permitted to file an appeal under Section 246A of the IT Act within a period of three weeks from the date of receipt of a copy of this order; and

(ii) The appellate authority on receipt of any such appeal from the writ petitioner shall consider the same on merits and in accordance with law by affording opportunity to the writ petitioner and pass orders as expeditiously as possible preferably within a period of eight weeks from the date on which the petitioner files the appeal. It is made clear that the appellate authority shall consider the issues independently without reference to any other orders passed by the other authorities.

7.With the above observations and directions, these writ petitions stand disposed of. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

Abr

To

1.The Assessing Officer,
TDS CPC, Ayakar Bavan,
Sector-3, Vaishali,
Ghaziabad, UP-201 010.

2.The Commissioner of Income Tax (TDS),
Income Tax Department,
Office of the Commissioner of Income Tax (TDS),
No.1510, 1st Floor, May Flower, Midcity,
Trichy Road, Coimbatore.

+1cc to Mr.G.R.Associates, Advocate, S.R.No. 26094
+1cc to Mr.S.Rajesh, Advocate, S.R.No. 25570

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AK II(CO)
GN(07/07/2021)