IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.33145 & 33149 of 2018
and
W.M.P.Nos.6712 & 6714 of 2019

Revetaara Diabetics Private Limited,
Represented by its Director,
Mr.Sambhu Nath Choubey,
No.3-6-376, 1st Floor, Skill Spectrum,
Himayatnagar, TDD Kalyana Mandapam,
Hydrebad 500 029. ... Petitioner in both W.Ps.

Vs.

The Income-Tax Officer,
Corporate Ward 5(4),
121, Mahatma Gandhi Road,
Chennai - 600 034. ... Respondent in both W.Ps.

Prayer in W.P.No.33145 of 2018:
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 of the respondent pertaining to the order dated 04.05.2018 bearing reference no.CW-5(4) AACCR 6843 B/11-12 passed under Section 124 Income Tax Act, 1961 and to quash the same.

Prayer in W.P.No.33149 of 2018:
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 of the respondent pertaining to the reassessment notice dated 26.03.218 bearing Notice No.ITBA/AST/S/148/2017-18/1009433562(1), issued under Section 148 of the Income Tax Act, 1961.

For Petitioner : Mr.Akhil Bhansali
(in both W.Ps)
For Respondent : M/s.Hema Muralikrishnan
(in both W.Ps) Senior Standing counsel

C O M M O N O R D E R

The petitioner has challenged the impugned notice dated 26.03.2018 and the impugned communication dated 04.05.2018 over ruling the objection of the petitioner.

2.The dispute pertains to the Assessment year 2011-12 when the petitioner was under the Management of Promoters and had its office in Sowcarpet in Chennai. The management of the petitioner was taken over by a new management from calcutta. The business was apparently carried out in Hydrebad and a communication was also given to the jurisdictional office at Hydrebad indicating the above change of address from Chennai to Hyderabad. The return for the Assessment and the consequential order under Section 143(1) of the Income Tax Act were completed by the respondents at Chennai.

3.The impugned notice dated 26.03.2018 was also issued from Chennai. The petitioner has filed the objections which has now culminated in the impugned order. The impugned notice and the order is challenged primarily on the ground that the petitioner has shifted the place of business from Chennai to Hydrebad and therefore the respondent has no jurisdiction to pass the impugned order and consequently it is submitted that the impugned notice dated 26.03.2018 seeking to reopen the assessment was also liable to be quashed.

4.Heard the learned counsel for the petitioner and the respondent.

5.The impugned order dated 04.05.2018 has been passed by the respondent. It has been passed without furnishing reasonings for reopening of the Assessment. Since the furnishing of the reasons for reopening of the Assessment is required, I am of the view the impugned order dated 04.05.2018 passed by the respondent is liable to be quashed. Therefore, the impugned order dated 04.05.2018 stands quashed with a direction to the respondent to furnish reasons to the petitioner for reopening of the assessment vide impugned notice dated 26.03.2018 to the petitioner. Respondent is therefore directed to furnish reasons for reopening of the assessment vide notice dated 26.03.2018 within a period of four weeks from the date of receipt of a copy of this order. On such reasons being furnished to the petitioner, the petitioner shall file a reply within a period of 30 days thereafter. The respondent shall thereafter pass order speaking order in accordance with law within a period of 30 days thereafter in terms of the decision of the Hon'ble Supreme Court in G.K.N.Drive Shafts India Ltd Vs. Income Tax Officer, 259 ITR 19(SC).

6.Writ Petitions stand disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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Notes:-In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

The Income-Tax Officer,
Corporate Ward 5(4),
121, Mahatma Gandhi Road,
Chennai - 600 034.

+2cc to Mr.Akhil Bhansali, Advocate, S.R.No.21327
+1cc to Mrs.Hema Muralikrishnan, Advocate, S.R.No.21323

W.P.Nos.33145 & 33149 of 2018
and
W.M.P.Nos.6712 & 6714 of 2019

EV(CO)
CB(30/06/2021)