IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 29.06.2021
CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P. No.33812 of 2018

M/s.Pfizer Healthcare India Private Limited,
(Formerly known as Hospira Healthcare India Private Limited)
Represented by the authorized signatory,
Mr.Bodhisatwa Ray
Sri Nivas, New No.86, Old No.89,
GN Chetty Road, T.Nagar,
Chennai – 600 017. ..Petitioner

Vs.

Deputy Commissioner of Income Tax,
Corporate Circle-5(2)
Room No.512, 5th Floor, Wanaparthy Block,
121, Mahatma Gandhi Road,
Nungambakkam, Chennai-600 034. .. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorari to call for the records on the file of the respondent and quash the impugned order in No.ACIT/Corp.Circ.5(2)/AABCO2190F/18-19 dated 28.11.2018 along with notice in PAN: AABCO2190F dated 23.03.2018 issued under Section 148 of the Income Tax Act, 1961 for the assessment year 2011-12.

For Petitioner : Mr.N.V.Balaji

For Respondent : Mr.D.Prabhu Mukunth Arunkumar,
Standing counsel for Income Tax

O R D E R

The Case has been heard through video conferencing

The writ petition is filed challenging the order passed by the respondent, disposing of the objections filed by the writ petitioner for re-opening the assessment.

2.The petitioner is a private company limited and the impugned order is challenged mainly on the ground that the spirit of the directives given by the Hon'ble Apex Court of India in GKN Driveshafts India Ltd., Vs. ITO reported in 259 ITR 19 (SC) have not been followed by the respondent while disposing of the objections filed by the writ petitioner on the reasons furnished for re-opening the assessment under Section 147/148 of the Act.

3.The learned counsel appearing for the writ petitioner, though raised factual grounds, this Court cannot go into those facts or adjudicate the same, which is to be done with reference to the documents and evidence to be scrutinized. Such an exercise cannot be done in the present writ petition. However, the petitioner is able to point out that the objections raised by the petitioner on 26.06.2018, more specifically in para 2.1 regarding the reason to believe for reopening of assessment should be based on new/tangible material on record, have not been dealt with by the competent Assessing Officer while disposing of the objections. It is contended that the writ petitioner raised eight points for consideration and none of the objections raised in para 2.1 had been considered nor a finding has been given in the order disposing of the objections.

4.This apart, the learned counsel appearing for the writ petitioner reiterated that the order of the Commissioner granting sanction has not been furnished to the writ petitioner enabling him to raise additional grounds.

5.This Court is of the opinion that, if at all the petitioner is entitled to get a copy of the sanctioning order passed by the Commissioner, the same is to be furnished enabling the assessee to defend his case in the manner known to law. As far as the objections raised by the petitioner vide letter dated 26.06.2018 is concerned, the order disposing of the objections dated 28.11.2018 has not spelt out any fact relating to the objections or findings to the said objections raised by the petitioner.

6.Thus, this Court is of the opinion that the disposal of the objections must be meaningful and findings are to be given by the Assessing Officer to proceed with the matter by following the provisions of the Income Tax Act. It is repeatedly held that the directives in GKN Driveshafts India Ltd. case (supra) regarding disposal of the objections means that the objections raised both factually and legally must be considered with reference to the provisions of the Act and the principles and a finding is to be given enabling the assessee to defend the case properly.

7.In the present case, the order, dated 28.11.2018, disposing of the objections, reveals that the said objections raised by the petitioner in para 2.1 have not been considered. Thus, the matter is to be remanded back for fresh consideration of the objections filed by the writ petitioner on 26.06.2018. In this view of the matter, the impugned order passed by the Assessing Officer in proceedings dated 28.11.2018 is set aside and the matter is remanded back to the respondent for fresh consideration of the objections filed by the writ petitioner on 26.06.2018 and to pass speaking order by considering all the objections, as expeditiously as possible.

8.With these directions, the writ petition stands allowed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rpl/mkn
To

The Deputy Commissioner of Income Tax,
Corporate Circle-5(2)
Room No.512, 5th Floor, Wanaparthy Block,
121, Mahatma Gandhi Road,
Nungambakkam, Chennai-600 034.

+1cc to Mr.N.V.Balaji , Advocate SR.No. 30167
+1cc to Mrs.Hema Muralikrishnan, Advocate SR.No. 30050

W.P. No.33812 of 2018

PCH(CO)
B.VC(23.07.2021)