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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2022

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.186 of 2022

and

W.M.P.Nos.222 & 223 of 2022

(Through Video Conferencing)

Pandiyan Paper Company,  
Old No.132-A, New No.298,  
1st Agraharam, Salem - 636 001.

...Petitioner

Vs.

The Income Tax Officer,  
Ward-1(1), Income Tax Office,  
No.3, Gandhi Road,  
Salem - 636 007.

...Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari calling for the records of the respondent dated 30.03.2021 in DIN: ITBA/AST/S/148/2020-2021/1031908779(1) issued under Section 148 of the Income Tax Act for the Assessment Year 2014-2015 in PAN:AAGFP4598J and quash the same.

For Petitioner : Mr.T.Vasudevan

For Respondent : Mr.A.P.Srinivas

Senior Standing Counsel

ORDER

Mr.A.P.Srinivas, learned Senior Standing Counsel takes notice on behalf of the respondent.

2. Heard the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondent.

3. This is the second round of litigation before this Court. Earlier, the petitioner had questioned the notice issued under Section 148 of the Income Tax Act on 30.03.2021 in W.P.No.17262 of 2021.



4. The said writ petition was disposed by an order dated 18.08.2021. The aforesaid notice sought to reopen the assessment beyond the normal period of limitation under Section 147 of the Income Tax Act, 1961 (hereinafter referred to as the IT Act) almost at the fag end of the limitation period prescribed under Section 147 of the IT Act. Pursuant to the aforesaid notice, the respondent has passed the impugned order disposing/over ruling the objection of the petitioner against reopening of the Assessment under Section 148 of the IT Act.

5. The learned counsel for the petitioner submits that the reasons for reopening the assessment as communicated by the respondent by their communication dated 09.07.2021 is inconsistent with the finding given by the respondent in the impugned order for reopening the assessment.

6. The learned counsel for the petitioner further submits that the Original Scrutiny Assessment was completed under Section 143 of the IT Act, after all the records were called for and based on the aforesaid records, the assessment was completed.

7. It is submitted that the respondent has not produced any document to substantiate any suppression by the petitioner to assume jurisdiction under Section 148 of the IT Act for reopening the assessment.

8. The learned counsel for the petitioner submits that the impugned order is contrary to the decision of the Hon'ble Supreme Court in Commissioner of Income Tax, Delhi Vs. Kelvinator of India Limited, 2010 (2) SCC 723 and that the impugned order is inspired only on account of change of opinion and not on account of suppression in the impugned order over ruling the objection of the petitioner against reopening of the assessment.

9. The learned counsel for the petitioner has also relied on the decision of the Hon'ble Division Bench of this Court in M/s.DRS Industries Private Limited Vs The Deputy Commissioner of Income Tax, Central Circle-I, Coimbatore, Assistant Commissioner of Income Tax, Central Circle-I, Coimbatore in W.A.No.1494 of 2021 pronounced on 09.08.2021.

10. It is submitted that in an identical situation, the Hon'ble Division Bench of this Court had interfered by setting aside the order of the learned Single Judge of this Court and therefore submits that the writ petition filed by the petitioner deserves to be allowed.





20. Under these circumstances, the Writ Petition filed by the petitioner is disposed. The respondent is directed to complete the proceedings within a period of three months from the date of receipt of a copy of this order.

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21. This writ petitions stands disposed of in terms of the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rgm/arb

To

The Income Tax Officer,  
Ward-1(1), Income Tax Office,  
No.3, Gandhi Road,  
Salem - 636 007.

+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.1900

W.P.No.186 of 2022  
and  
W.M.P.Nos.222 & 223 of 2022

SRA(CO)  
KKV/02/02/2022