IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.3837 of 2019
&
W.M.P.Nos.4263 & 4265 of 2019

R.Suryaprakash ...Petitioner

Vs.

1. The Income Tax Settlement Commission,
   Additional Bench,
   640, Anna Salai,
   Nandanam,
   Chennai – 600 034.

2. The Principal Commissioner of Income Tax,
   Banglore – IV,
   Bengaluru.

3. The Assistant Commissioner of Income Tax,
   Circle - 4(2) (1),
   BMTC Building, Koramangala,
   Bengaluru. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records in PAN:DMSPS5204M and quash the impugned order in KA/BL4/2014-15/38/IT dated 22.01.2019 passed by the 1st respondent withdrawing the immunity granted by it against penalty and prosecution proceedings for the assessment year 2012-13 and 2013-14 as illegal arbitrary and devoid of merit.

For Petitioner : Mr. Raghav Rajeev Menon
For Respondents : Mrs. Hema Muralikrishnan
Senior Standing Counsel

ORDER

Mrs.Hema Muralikrishnan, learned Senior Standing Counsel appearing on behalf of the respondents has raised a preliminary objection relating to the maintainability of the writ petition on the doctrine of forum conveniens.

2. She further points out that the substantial cause of action agitated by the petitioner has arisen in Karnataka and the official respondents, that is R2 & R3, the Principal Commissioner of Income Tax and the Assistant Commissioner of Income Tax, are Officers situated in Bangalore. Thus, mere arrayal of the Income Tax Settlement Commission as R1 would not vest jurisdiction in this Court as the Settlement Commission is an authority that exercises jurisdiction over matters arising from all Southern States and this constitute an administrative feature.

3. A Division Bench of this Court in the case of Mulberry Skills Ltd. Vs.Settlement Commission (IT & WT) [(2020) 428 ITR 136], referring to the judgments of the Hon'ble Supreme Court in Kusum Ingots and Alloys Ltd. Vs. Union of India [2004 (168) ELT (3) SCC]; R.T.Industries Vs. Income Tax Settlement Commission [(2018) 98 taxmann.com 236]; West Coast Ingots (P.) Ltd. V. CCE [(2007) 209 ELT 343] has considered an identical issue holding that challenge to the proceedings must be raised in the State where the assessing officials are situated.

4. In the above case as well, the petitioner was assessed in Karnataka and the Courts in Madras were held not to have requisite territorial jurisdiction. Learned counsel for the petitioner would fairly accede to the position as enunciated above.

5. In light of the discussion as aforesaid, this writ petition is dismissed. Connected writ miscellaneous petitions are closed. No Costs.

Sd/-
Assistant Registrar(CS III)

/True Copy//

Sub Assistant Registrar

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To

1. The Income Tax Settlement Commission,
   Additional Bench,
   640, Anna Salai,
   Nandanam, Chennai - 600 034.

2. The Principal Commissioner of Income Tax,
   Banglore - IV, Bengaluru.

3. The Assistant Commissioner of Income Tax,
   Circle - 4(2) (1),
   BMTC Building, Koramangala,
   Bengaluru.

+1cc to Mrs. Hema Muralikrishnan, Advocate, S.R.No.32692

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NSK/15/06/2022