IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.Nos.4661 & 4663 of 2019 &
WMP.Nos.5277, 5278, 5282 & 5283 of 2019

M/s.Lion Dates Impex (P) Ltd.,
No.40, Sterling Road, Nungambakkam,
Chennai - 600 034, rep. by its
Managing Director P.Ponnudurai.
... Petitioner in both W.P.'s

Vs

1. Income Tax Settlement Commission,
   Additional Bench, 640, Anna Salai,
   Chennai - 35.

2. The Commissioner of Income Tax (Appeals),
   Central-II, Chennai.

3. The Assistant Commissioner of Income Tax (AO),
   Central Circle-I, Trichy.

... Respondents in both W.P.'s

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 1st respondent made in S.A.No.TN/CN52/2014-15/57/IT dt 30.09.2016 and consequential assessment orders of the 3rd respondent dt 31.12.2018 & 28.12.2017 under Section 143(3) of IT Act, 1961 in respect of the petitioner's AY 2016-17 and 2015-16 respectively and quash the same insofar as disallowance of deduction / exemption claimed u/s.80IB(11A) of the Income Tax Act, 1961 and consequently direct the 3rd respondent to redo the same in strict adherence to the provisions as enshrined under Section 80IB and under Section (11A) of Section 80IB.

(Both the W.P.'s)
For Petitioner : Mr.Vaibhav R.Venkatesh

For Respondents : Mr.A.P.Srinivas,
Senior Standing Counsel

COMMON ORDER

When the matter is taken up for hearing, Mr.A.P.Srinivas, learned Senior Standing Counsel points out that the petitioner has duly disclosed in the affidavit filed in support of the Writ Petitions that statutory appeals have been filed challenging the impugned orders of assessment before the Commissioner of Income Tax (Appeals).

2.In such circumstances, the present Writ Petitions are rendered non- maintainable, seeing as the petitioner has rightly availed of efficacious alternate remedy available under the Act and cannot be permitted to ride two horses simultaneously.

3. The order of the Settlement Commission, based upon which the impugned assessments have been framed, was challenged in W.P.No.36950 of 2016 which writ petition came to be dismissed by a learned Single Judge of this Court on 03.09.2021. To be noted that the impugned orders of assessment relate to periods subsequent to that dealt with by the Settlement Commission, but emanate substantially from the same.

4.As against the aforesaid order, the petitioner is before the Division Bench in W.A.No.2406 of 2021 in which orders are stated to have been reserved by the Division Bench on 28.04.2022. Furthermore, the order of the learned Single Judge has also been stayed by the Division Bench vide order dated 20.09.2021.

5.In light of the above narration, it would be appropriate that the hearing of the statutory appeals be deferred till such time orders are pronounced in W.A.No.2406 of 2021 and subject to the result of the same as the order of the Settlement Commission forms the basis, substantially, of the impugned assessments, though for subsequent periods.

6.This Writ Petition is dismissed with no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

kbs

To

1. Income Tax Settlement Commission,
   Additional Bench, 640, Anna Salai,
   Chennai – 35.

2. The Commissioner of Income Tax (Appeals),
   Central-II, Chennai.

3. The Assistant Commissioner of Income Tax (AO),
   Central Circle-I, Trichy.

+2cc to Mr.A.P.Srinivas, Advocate, S.R.No.33358

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GJ(CO)
CT/27/07/2022