IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:29.06.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.22792 of 2019
&
W.M.P.Nos.22354 & 22359 of 2019

M/s.Muthoot Fin Corp Ltd.
A Limited Company
Registered under the Provisions of the
Indian Companies Act, 1956
Represented by its Company Secretary
Mr.T.D.Mathai
Muthoot Center,
Punnen Road, Jacobs Junction,
Trivandrum – 695 039.
Kerala. ...Petitioner

Vs.

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

2. The Principal Commissioner of Income Tax (Central),
   5th Floor, Kandamkulathy Towers, MG Road,
   Cochin – 682 011.

3. The Deputy Commissioner of Income Tax,
   Central Circle,
   Trivandrum – 695 003. ...Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent contained in the impugned order bearing No.KL/TV51/2017-18/63/IT dated 19.06.2019, and to quash the same as arbitrary, unjust and illegal and to consequently direct the 1st respondent to reconsider the application filed by the petitioner bearing No.KL/TV51/2017-18/63/IT and to pass fresh orders under Section 245D(4) of the Income Tax Act, 1961 (hereinafter referred to as the "Act") after affording sufficient opportunity of being heard and thus render justice.

For Petitioner : Mr.Sivaraman R.

For Respondents : Mr.ANR Jaya Prathap
Junior Standing Counsel

O R D E R

Learned Counsel for the petitioner would draw attention to a decision of the Division Bench of this Court in Mulberry Skills Ltd Vs. Settlement Commission (IT & WT) ([2021] 123 taxmann.com 118 (Madras)), wherein a writ filed in identical circumstances, challenging an order of the Settlement Commission, came to be rejected on the ground that the petitioner was assessed before an authority in a different State. In that case the assessee was assessed in Karnataka, whereas, in the present case the Assessing Authority/R3, is in the State of Kerala.

2. The relevant portion of the decision reads as follows:

> "7. To sum up the legal position as referred to in the above decision , the doctrine of dominus litis or doctrine of situs of the appellate Tribunal do not go together ; and a dominus litis indicates that the suitor has more than one option , whereas the situs of an Appellate Tribunal refers to only one High Court wherein the appeal can be preferred . Further , it was pointed out that situs of a Tribunal may vary from time to time and it could be Delhi or some other place or hennai as in the case on hand and the determination of jurisdiction of the High Court should be based on the relevant Statute and that the Parliament never contemplated to have a situation of this nature and if the cause of action doctrine is given effect to . invariably more than one High Court may have jurisdiction , which is not contemplated .
>
> 8. As noted above , the appellant is an assessee on the file of the third respondent namely the Deputy Commissioner of Income Tax , Company Circle 4 (1) (Inv .) , IV Floor , Kendriya Sadan , Koramangala , Bangalore . The Appellate Authority , before whom the assessee filed the appeal is the second respondent herein namely the Commissioner of Income Tax , Bangalore - III ,

> Bangalore . Therefore , the learned Single Judge was justified in rejecting the writ petition on the ground that due to lack of territorial jurisdiction , the order passed by the Settlement Commission did not call for interference .
>
> 9.In the light of the above , the writ appeal is dismissed leaving it open to the appellant to move the High Court of Karnataka if they are so advised. It is also made clear that the above writ appeal has been dismissed solely on the ground of lack of territorial jurisdiction to entertain the appeal / writ petition and the merits of the case of the appellant have not been dealt with in this judgment . No costs . Consequently . the connect - i CMP is also dismissed .”

3. In this matter as well, it open to the petitioner to move the Kerala High Court, if they are so inclined.

4. This Writ Petition stands dismissed. Connected writ miscellaneous petitions are closed. No Costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

nst

To

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

2. The Principal Commissioner of Income Tax (Central),
   5th Floor, Kandamkulathy Towers, MG Road,
   Cochin – 682 011.

3. The Deputy Commissioner of Income Tax,
   Central Circle,
   Trivandrum – 695 003.

Copy to:

1. The Registrar,
   High Court of Kerala,
   Ernakulam.

2. The Section Officer,
   E.R. Section,
   High Court, Madras.

[with direct to return the original impugned order to the counsel for the petitioner]

+1cc to Mr.R.Siva Raman, Advocate, S.R.No.41867

+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.41747

W.P.No.22792 of 2019
&
W.M.P.Nos.22354 & 22359 of 2019

PA(CO)

UMA(27/07/2022)