



WEB COPY



W.P.No.27862 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.10.2022

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.27862 of 2022
and WMP No.27156 of 2022

Selva Stone Export Private Limited
rep. By its Managing Director,
Thiru G.Selvaraj

... Petitioner

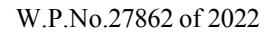
Vs

Assistant Commissioner of Income Tax,
Central Circle,
Income Tax Office,
No.3, Gandhi Road,
Salem – 636 007

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records in DIN & order No.ITBA/AST/S/147/2022-23/1046151946(1) dated 30.09.2022 on the file of the respondent relating to AY 2013-14 and quash the same.

For Petitioner : Mr.R.Sandeeep Bagmar
For Respondent : Mr.A.P.Srinivas
Senior Standing Counsel



Learned counsel for the petitioner seeks permission to withdraw this Writ Petition with liberty to approach the appellate authority by way of a statutory appeal. He has also made an endorsement to that effect.

2. In light of endorsement made, this Writ Petition is dismissed as withdrawn with liberty as sought for. Appeal, if any, filed within a period of three (3) weeks from today, shall be taken on file by the appellate authority without reference to limitation, but ensuring compliance with other statutory conditions, if any.

3. Both learned counsel concur that the question of assumption of jurisdiction has not been looked into by the assessing authority as per the procedure as set out by the Hon'ble Supreme Court in the case of *GKN Drive Shafts (India) Ltd. V. Income Tax Officer* (259 ITR19).

4. Thus, and if the petitioner challenges the same in appeal, let the appellate authority decide the question of assumption of jurisdiction by the officer under Section 147 as a preliminary issue before taking up the issue on merits, if at all. No costs. Connected Miscellaneous Petition is also dismissed.

19.10.2022

Index : Yes / No

Speaking/non-speaking Order



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To
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