IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2023

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THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.1395 of 2020
and
W.M.P.No.1643 of 2020

M/s.Fomra Sales Private Limited,
Rep by its Director,
Aditya Kumar Fomra,
No.126, Mint Street,
Sowcarpet, Chennai – 600 079. ... Petitioner

Vs.

The Income Tax Officer,
Corporate Ward -2(2),
No.121, M.G.Road,
Nungambakkam, Chennai – 600 034. ... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the file of the respondent passed in reassessment order under Section 143(3) read with Section 147 of Income Tax Act, 1961 in PAN AAACF6934D dated 17.12.2019 for AY 2012-2013 and quash the same as illegal, without jurisdiction, authority of law and against the principles of natural justice and fair play.

For Petitioner : Mr.T.Pramod Kumar Chopda

For Respondent : Mr.Prabhu Mukunth Arun Kumar
Standing Counsel

ORDER

The petitioner has challenged the impugned Assessment order dated 17.12.2019 on the ground that the impugned Assessment order has been passed without jurisdiction inasmuch as the expenses which was claimed by the petitioner during the Financial Year 2010-2011 for a sum of Rs.85,17,600/- was allowed in the Assessment for the Assessment Year 2011-2012 was disallowed in the impugned order passed for Assessment Year 2012-2013.

2.It is submitted that during the Financial Year 2011-2012 for the relevant Assessment Year namely 2012-2013, the petitioner had a gross income of Rs.4,34,28,578/-. It is submitted that during the Financial Year 2011-2012 the petitioner had incurred a sum of Rs.3,79,75,186/- towards expenditure which included Rs.85,17,600/-. It is submitted that a sum of Rs.85,17,600/- was allowed as expenses. Thus, sum of Rs.8,74,630/- was determined as taxable income of the petitioner.

3.It is submitted that expenses that was incurred by the petitioner during the Financial year 2010-2011 for the relevant Assessment Year 2011-2012 cannot be treated as a expenses dis-allowed during the current Financial Year.

4.A reading of the impugned order indicates that the petitioner was issued with a show cause notice to show cause as to why the unexplained sum of Rs.85,17,600/- which is said to have been paid to M/s.Ashmita Projects Private Limited should not be disallowed. The petitioner had neither filed any reply nor filed any document despite several opportunity being given to the petitioner.

5.It is in this background, the impugned order has been passed, for the Assessment Year 2012-2013, whereby, the aforesaid sum of Rs.85,17,600/- has been treated as unexplained expenditure under Section 69C of the Income Tax Act, 1961.

6.*Prima facie*, challenge to the impugned order under Article 226 of the constitution of India is without any merit as the amount that has been paid by the petitioner was neither explained by the petitioner nor the books of accounts filed by the petitioner show it was out of profits earned by the petitioner. Therefore, this writ petition is liable to be dismissed. However, liberty is given to the petitioner to file a statutory appeal within a period of 30 days from the date of receipt of a copy of this order. In case such an appeal is filed, same shall be numbered by the office of the Appellate Commissioner.

7.The Appellate Commissioner shall dispose the appeal uninfluence by any of the observations contained herein.

8.This writ petition stands dismissed with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

13.07.2023

Index : Yes/No
Internet : Yes/No
Speaking/Non-speaking Order
Neutral Citation:Yes/No
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To

The Income Tax Officer,
Corporate Ward -2(2),
No.121, M.G.Road,
Nungambakkam, Chennai – 600 034.

C.SARAVANAN, J.

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