IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2023

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.8479 of 2023

M/s Kern Enterprise Ltd
Earlier known as M/s.Kern Logistics Ltd
Findex NZ Ltd, TE AHI Building, Level 1
13, Camp Street, Queenstown,
New Zeland.
Rep. By its Director,
Mr.Kannan Narayanan
having residence at:
No.97, Kalpaviruksha, 11th Cross,
Malleswaram, Bengaluru 560 003. .. Petitioner

vs

The Deputy Commissioner of Income Tax,
International Taxation 1(2),
Room No.408, BSNL Building 4th Floor,
Income Tax Office – BSNL Tower,
No.16, Greams Road,
Chennai 06. .. Respondent

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondent to consider and dispose the rectification cum refund application under Section 155 (14A) read with Section 128 of the Income Tax Act, 1961 dated 30.03.2022 filed by the petitioner and grant the refused of taxes for the Assessment Years 2017-18 to 2020 – 21.

For Petitioner : Ms.Vandana Vyas

For Respondent : Mr.Prabu Mukund Arunkumar

ORDER

1. Read this order in continuation of and in conjunction with order dated 23.03.2023, that reads as follows:-

> *"Mr.Prabhu Mukund Arun Kumar, learned Junior Standing Counsel states that the application of the petitioner under Section 154 of the Income Tax Act, 1961, addressed to the Centralised Public Grievance Redress and Monitoring System (CPGRAMS), was forwarded for the comments of the Assessing Officer and the Assessing Officer has, in his comments, addressed directly to CPGRAMS through Commissioner, stated that the application is not feasible of acceptance as it is beyond the scope of Double Taxation Avoidance Agreement. This has also been communicated by CPGRAMS to the petitioner.*
>
> *2. However, neither the Assessing Officer nor CPGRAMS have heard the petitioner. It stands to reason that at least the Assessing Officer ought to have heard the petitioner prior to forwarding of the report to CPGRAMS, as otherwise the petitioner would not have been heard by any authority in the sequence of these transactions.*
>
> *3. Hence, let notice be issued to the petitioner by the Assessing Authority, petitioner heard and orders passed on or before 05.06.2023.*
>
> *4. List on 06.06.2023 under the caption 'for production of orders'."*

2. Today, both learned counsel concur on the position that pursuant to order dated 23.03.2023, an order of assessment has been passed on 12.05.2023. With this, as nothing further survives in this writ petition, the same stands closed. No costs.

06.06.2023

Index:Yes/No
Neutral Citation:Yes
ssm

To:

The Deputy Commissioner of Income Tax,
International Taxation 1(2),
Room No.408, BSNL Building 4th Floor,
Income Tax Office – BSNL Tower,
No.16, Greams Road,
Chennai 06.

DR. ANITA SUMANTH,J.

ssm

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