IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.03.2023

CORAM

THE HONOURABLE Mr. JUSTICE R.MAHADEVAN
AND
THE HONOURABLE Mr. JUSTICE MOHAMMED SHAFFIQ

W.A.Nos.623 & 624 of 2023
and C.M.P.Nos.6101, 6133 and 6136 of 2023

International Seaport Dredging Private Limited
(Formerly known as International
Seaport Dredging Limited)
represented by its Authorized Signatory
Kannan Subramanian,
P.No.2c, 1st floor, Ocean Square,
South Phase, Thiru Vi Ka Industrial Estate,
Ekkattuthangal, Guindy, Chennai – 600 032. .. Appellant in both appeals

Vs.

1.The Additional/Joint/Deputy/Assistant
Commissioner of Income Tax/Income-Tax Officer,
National Faceless Assessment Centre,
Delhi.

2.The Assistant Commissioner of Income Tax
Corporate Circle – 2(1),
Wanaparthy Block, No.121,
Mahatma Gandhi Road, Nungambakkam,
Chennai, Tamil Nadu 600 034.

3.The Principal Commissioner of Income Tax,
Chennai – 1, Room No.701, VII Floor,
Wanaparthy Block, No.121,
Mahatma Gandhi Road, Nungambakkam,
Chennai, Tamil Nadu 600 034. .. Respondents in both appeals

Common Prayer: Writ Appeals filed under Clause 15 of the Letters Patent against the common order dated 22.04.2022 passed in W.P.Nos.10138 & 10147 of 2022 on the file of this Court.

For Appellant in both appeals : Mr.N.V.Balaji

For Respondents in both appeals : Mr.Prabhu Mukunth Arunkumar
Junior Standing Counsel for
Mr.Ramana Kumar
Senior Standing Counsel

COMMON JUDGMENT

[Judgement of the Court was delivered by R.MAHADEVAN, J.]

Challenging the common order dated 22.04.2022 passed by the learned Judge in W.P.Nos.10138 & 10147 of 2022, the appellant / assessee has preferred the present two appeals.

2.The facts leading to filing of these appeals would run thus:

2.1. The appellant is a part of the Dredging, Environmental and Marine Engineering Group (DEME Group), a multinational group of companies, engaged in the highly specialized fields of dredging, solutions for the offshore energy market, infra marine and environmental works, and is ultimately held by DEME NV, a limited company registered in Belgium.

2.2. For the Assessment Years 2015-16 and 2016-17, notices under section 148 of the Income Tax Act, 1961 (in short, "the Act") were issued on 31.03.2021. Upon receipt of the same, the appellant sought reasons for reopening the assessment and received the reasoning on 29.09.2021. Thereafter, they filed objections for reopening the assessment on 30.11.2021, but the same were rebutted, by order dated 19.03.2022.

2.3. Challenging the aforesaid order, the appellant preferred WP.Nos.7719 and 7722 of 2022. Before the writ petitions were taken up for consideration, the first respondent passed the reassessment orders on 28.03.2022 for the years in question. Therefore, the appellant sought permission to withdraw the said writ petitions, with liberty to work out the appropriate legal remedy as against the reassessment orders. Accordingly, liberty was granted and the said writ petitions were dismissed as withdrawn by order dated 30.03.2022.

2.4. Subsequently, the appellant preferred WP.Nos.10138 and 10147 of 2022 challenging the reassessment orders, section 148 notices and the orders rejecting the objections. After hearing both sides, the learned Judge, by order dated 22.04.2022, disposed of the said writ petitions, by setting aside the reassessment orders and remitting the matters to the Revenue for reconsideration. The operative portion of the said order is extracted below for ready reference:

> *"15. In that view of the matter, this Court is inclined to dispose of these writ petitions with the following orders:*
>
> *(i) That the assessment orders dated 28.03.2022, which are impugned herein are hereby set aside and the matters are remitted back to the respondent / Revenue for reconsideration and in the process of reconsideration, it is open to the petitioner/assessee to treat the Show Cause Notices dated 24.03.2022 as fresh notices and accordingly, within a period of two weeks from the date of receipt of a copy of this order, it is open to the petitioner/assessee to give reply with further documents, inputs, if any, to the satisfaction of the Revenue and based on which, it is open to the Revenue to proceed further and to pass final orders.*
>
> *(ii) It is further made clear that, except the quashment of the orders dated 28.03.2022 i.e., the impugned assessment orders, all other prayer sought for by the petitioner in these writ petitions are liable to rejected for the reason stated above, hence those prayers are rejected."*

2.5. Feeling aggrieved, the appellant is before this court with the present two writ appeals.

3.When the matter was taken up for consideration, the learned counsel for the appellant, after making some submissions, submitted that it would suffice, if the appellant is granted liberty to raise all the grounds available to them before the Appellate Authority by filing appeals as against the reassessment orders, for which, there is no serious objection on the side of the respondent authorities.

4.In view of the limited relief now sought by the learned counsel for the appellant, which has not been seriously opposed by the learned counsel appearing for the respondents, the order of the learned Judge dated 22.04.2022 passed in the writ petitions in setting aside the reassessment orders and remitting the matters to the Revenue for reconsideration, is modified to the following effect:

(i)The appellant is directed to file appeals before the Appellate Authority as against the reassessment orders for the years in question, within a period of four weeks time from the date of receipt of a copy of this order; and

(ii)On filing of such appeals, the Appellate Authority shall consider the same, without raising any issue relating to limitation aspect, and pass appropriate orders, on merits and in accordance with law, after affording due opportunity of hearing to the appellant, as expeditiously as possible.

5.These writ appeals stand disposed of, in the above terms. No costs. Consequently connected miscellaneous petitions are closed.

[R.M.D., J.] [M.S.Q., J.]
20.03.2023

Index: Yes / No
Speaking order/ Non-speaking order
Neutral Citation: Yes / No
nsd

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R.MAHADEVAN, J.
AND
MOHAMMED SHAFFIQ, J.

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