IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.01.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.144 of 2024
and W.M.P.Nos.164 and 165 of 2024

M/s.PAR Formulations Private Limited
Represented by its Authorized Signatory,
Chittibabu Sampath Kumar,
9/215, Pudupakkam Vandalur Main Road,
Kelambakkam, Kanchipuram - 603 103. ... Petitioner

-vs-

1.Assessment Unit/Verification Unit/ Technical Unit/Review Unit
Income Tax Department,
National Faceless Assessment Centre, Delhi.

2.The Assistant Commissioner of Income Tax Circle 1 LTU,
Aayakar Bhavan, Nungambakkam,
Chennai 600 034. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records comprised in the impugned order bearing DIN:

ITBA/AST/S/143(3)/2023-24/1058218454(1) dated November 24, 2023 made under Section 143(3) read with Section 144C(3) read with Section 144B of the Income Tax Act, 1961 for the Assessment Year 2020-21 on the file of the First Respondent, quash the same.

For Petitioner : Mr.N.V.Balaji

For Respondent : Mr.V.Mahalingam, Sr. SC

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ORDER

The petitioner assails an assessment order dated 24.11.2023 in respect of assessment year 2020-21. The petitioner had filed a revised return of income in the assessment year 2020-21 declaring a total income of Rs.54,36,49,810/-. The case was selected for scrutiny assessment. Upon reference, the transfer pricing officer passed an order. On such basis, a draft order came to be issued. Upon receipt of the draft order, the petitioner filed objections dated 25.10.2023 before the dispute resolution panel (the DRP). The said objections were received by the DRP on 27.10.2023.

2. Although the relevant provisions of the Income Tax Act, 1961 require that a copy of the objections be placed before the Assessing Officer, the petitioner states that the portal did not provide the requisite access for placing the objections before the Assessing Officer. A screen shot of the portal is relied upon in this regard. The petitioner also relies upon an e-mail of 30.10.2023 from the representative of the petitioner to the Income Tax Department asserting that objections were filed before the DRP and that the same could not be e-filed because the e-filing facility was closed. In the above facts and circumstances, the assessment order dated 24.11.2023 was issued. In the said order, it is recorded that the petitioner did not file objections before the DRP and that, therefore, it was concluded that the petitioner has no objection to the draft assessment order. The present writ petition was filed in the above facts and circumstances.

3. By drawing reference to the objections filed before the DRP on 27.10.2023, learned counsel for the petitioner contends that the undisputed position is that the authority vested with the power of deciding on the objections received the objections within time. As regards the Assessing Officer, it is stated that an e-mail was issued on 30.10.2023 to inform the Assessing Officer that objections had been filed and a copy thereof was attached to the e-mail. Therefore, learned counsel submits that the impugned assessment order should be quashed and that a fresh assessment order may be issued after the DRP examines and adjudicates the objections raised by the petitioner.

4. Mr.V.Mahalingam, learned senior standing counsel, accepts notice on behalf of the respondents. By referring to the impugned order, he points out that the draft assessment order was issued on 30.09.2023 and that the petitioner had thirty days time within which to file objections before the DRP. Since a copy of such objections was not placed before the Assessing Officer, learned counsel submits that

the Assessing Officer proceeded to issue the assessment order.

5. The objections filed in Form 35A before the DRP are on record. The date stamp of the DRP on the cover letter evidences receipt of the objections on 27.10.2023. Therefore, the DRP undoubtedly received the objections before the expiry of the time limit for filing objections. As regards the obligation to submit a copy of such objections to the Assessing Officer, an e-mail of 30.10.2023 is on record. In the said e-mail, the petitioner asserts that objections were filed before the DRP and that a copy of such objections could not be placed before the Assessing Officer through the e-filing facility because such facility was not available. The objections were also attached to the e-mail.

6. In the facts and circumstances set out above, it appears that the Assessing Officer has proceeded to issue the assessment order on account of being unaware that objections were submitted before the DRP. Consequently, the petitioner's total income has been

determined in a sum of Rs.97,50,98,539/- against the income of Rs.54,36,39,810/- as per the petitioner's return. The conclusion that follows is that the petitioner is put to considerable prejudice without its objections being considered by the DRP. On this limited ground, the impugned assessment order dated 24.11.2023 is quashed.

7. As a consequence, the Assessing Officer is directed to await the decision of the dispute resolution panel before issuing a fresh assessment order. W.P.No.144 of 2024 is disposed of on the above terms without any order as to costs. Consequently, W.M.P.Nos.164 and 165 of 2024 are closed.

08.01.2024

rna
Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

To

1.Assessment Unit/Verification Unit/ Technical Unit/Review Unit
Income Tax Department,
National Faceless Assessment Centre, Delhi.

2.The Assistant Commissioner of Income Tax Circle 1 LTU,
Aayakar Bhavan, Nungambakkam,
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SENTHILKUMAR RAMAMOORTHY,J

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