IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **08.11.2024**

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THE HONOURABLE Mr.JUSTICE C.SARAVANAN

**WP.No.7034 of 2022**
**and**
**WMP.Nos.25166, 7063 & 7065 of 2022**

Celebrity Fashions Limited,
Represented by its Chief Financial Officer,
Mr.Venkataraghavan
SDF-IV & C2, 3rd Main Road,
MEPZ/SEZ, Tambaram,
Chennai-600 045.

... Petitioner

Vs.

1. Deputy Commissioner of Income Tax,
   Corporate Circle 1 (1)
   No.121, Mahatma Gandhi Road,
   Nungambakkam, Chennai-600 034.
2. Income Tax Officer
   Corporate Circle 1(3)
   No.121, Mahatma Gandhi Road,
   Nungambakkam, Chennai-600 034.
3. Additional/Joint/Deputy/Assistant Commissioner
   of Income Tax/Income Tax Officer
   Income Tax Department,
   National Faceless Assessment Centre,
   New Delhi.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records of the Respondent contained in its notice bearing DIN and Notice No. ITBA / AST / S / 148 / 2020-21 / 1031598891(1), dated 18.03.2021, issued by the 1st Respondent under Section 148 of the Income Tax Act, 1961, for PAN AAACC3696D, for assessment year 2013-14, and all proceedings in furtherance thereof, including but not limited to the order dated 08.03.2022 passed by the 2nd Respondent, for PAN AAACC3696D, for assessment year 2013-14, and quash the same as arbitrary, illegal and unjust, and to consequently forbear the Respondents or its superiors, subordinates, agents, etc. from re-assessing the Petitioners income for the assessment year 2013-14 under Section 147 of the Income Tax Act, 1961.

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| For Petitioner | : | Mr.Suhrith Parthasarathy |
| For Respondents | : | Mr.B.Ramana Kumar<br>Senior Standing Counsel |

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**ORDER**

The petitioner before this Court against the impugned order dated 08.03.2022 overruling the objection of the petitioner's reopening the assessment that was earlier completed under Section 143(3) on 12.02.2016 for the assessment year 2013-14.

2. The impugned order is assailed primarily on the ground that the impugned order seeking to justify the reopening of the assessment that was earlier completed on 12.02.2016 under Section 143(3) of the Income Tax Act, 1961 was inspired from change of opinion and thus, contrary to the decision of the Hon'ble Supreme Court in ***Commissioner of Income Tax Vs. Kelvinator of India Ltd.,*** reported in ***(2010) 2 SCC 723.*** That apart, it is submitted that the impugned exercise is nothing but an attempt to review the order, which is also frowned by the Hon'ble Supreme Court in terms of the aforesaid decision.

3. The learned counsel for the petitioner would submit that the reasons stated for reopening the assessment itself makes it clear that there is no ground for reopen the assessment that was earlier completed on 12.02.2016.

4. The learned counsel for the respondent on the other hand would submit that two reasons had been given for reopening the assessment vide communication dated 17.01.2022. As far as the second reasons are concerned, it is submitted that there is an adequate declaration in the form of

Note No.25 for the relevant financial year ended on 31.03.2013. Therefore, to that extent, the question of reopening of the assessment may not be justified. However, would submit that as far as the reconciliation of difference arising out of failure to pay tax on Rs.6.00 lakhs is justifiable and therefore, this writ petition is liable to be dismissed. The learned counsel for the respondent would also submit that the petitioner may succeed subject to the petitioner substantiating the case before the Assessing Officer.

5. Having considered the submissions made by the learned counsel for the petitioner and the respondent, having perused the records that are available before this Court and the counter filed by the respondent and after considering the arguments advanced today, this Court is of the view that the impugned order overruling the objection of the petitioner is clearly contrary to the decision of the Hon'ble Supreme Court in the above decision in ***Kelvinator of India Ltd***.'s case [cited supra]. There is an attempt to review the assessment that was completed on 12.02.2016 for the assessment year 2013-14 passed under Section 143(3) of the Income Tax Act. Therefore, the impugned order is liable to be quashed and accordingly, the same is quashed. Consequently, the impugned notice dated 18.03.2021, which is a genesis of the impugned order dated 08.03.2022 also stands quashed.

6. Accordingly, this writ petition is allowed. No costs. Consequently, connected WMPs are also closed.

**08.11.2024**

*kmi*

Index: Yes/No

Speaking Order/Non Speaking Order

NCC: Yes/No.

To

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   New Delhi.

**C.SARAVANAN, J.**

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