IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **22.03.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.7369 of 2024
&
W.M.P.Nos.8270, 8273 & 8275 of 2023

M/s.Multicoreware India P. Ltd
(Represented by its Director)
No.09, 3rd Street, Elango Nagar,
Virugambakkam, Chennai 600 092
PAN:AAICM2321B ... Petitioner

-vs-

1.The Assessment Unit
Income Tax Department,
National e-Assessment Centre, Delhi
E-Ramp, Jawaharlal Nehru Stadium,
Delhi-110 003.

2.The Income Tax Officer
Corporate Ward 4(1), Chennai
Income Tax Department,
No.121, Nungambakkam High Road,
Chennai 600 034.

3.The Principal Commissioner of Income Tax,
Chennai – 3,
Income Tax Department,
No.121, Nungambakkam High Road,
Chennai 600 034.

4. The Dispute Resolution Panel-3,
   Income Tax Department,
   'A' Wing, 4th Floor, Kendriya Sadan,
   Koramangala,
   Bengaluru-560 034.

5. The Deputy Commissioner of Income Tax
   Transfer Pricing 2(2), Chennai
   BSNL Tower, No.16, Greams Road,
   Chennai 600 006. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari to call for the records of the Writ Petitioner on the file of the 1st Respondent to quash the impugned order dated 13.02.2024 passed u/s.143(3) read with section 144C & 144B of the Act in DIN:ITBA/AST/143(3)/2023-24/1060882348(1) for the Assessment Year 2021-22.

For Petitioner : Ms.S.Sriranjani
for Mr.S.Sridhar

For Respondents : Mr.V.Mahalingam
Senior Standing Counsel for R1 to R3
Mr.B.Ramana Kumar,
Senior Standing Counsel &
Mr.D.Prabhu Mukunth Arunkumar
Junior Standing Counsel for R4 & R5

ORDER

An assessment order dated 13.02.2024 is assailed in this writ petition.

2. The petitioner had filed its return of income for assessment year 2021-22. In relation thereto, a notice was issued under Section 143(2) of the Income Tax Act, 1961 (the Income-tax Act), on 28.06.2022. The petitioner replied thereto. After issuing a show cause notice in respect of proposed variations on 13.12.2023, a draft assessment order under Section 144C(1) of the Income-tax Act was issued on 28.12.2023. The petitioner filed objections with regard to such draft assessment order before the Dispute Resolution Panel on 12.01.2023. It appears that the petitioner did not communicate the fact that objections were filed to the National Faceless Assessment Centre. A notice dated 06.02.2024 was issued to the petitioner calling upon the petitioner to communicate whether objections were filed before the Dispute Resolution Panel within five days. The petitioner did not reply thereto within the said period of five days. The impugned assessment order was issued in the said facts and circumstances.

3. Learned counsel for the petitioner invited my attention to the draft assessment order and to the objections filed in relation thereto before the Dispute Resolution Panel. She pointed out that the dispute resolution panel

acknowledged receipt of the objections and that the same is evidenced by rubber stamp dated 12.01.2024. Since the objections are pending consideration before the Dispute Resolution Panel, learned counsel submits that the impugned assessment order is not sustainable.

4. Mr.V.Mahalingam, learned senior standing counsel, accepts notice for the respondents. He submits that the statute prescribes that a person filing objections before the Dispute Resolution Panel should inform the assessing officer that such objections were filed. Indeed, he points out that a notice was issued to the petitioner on 06.02.2024 asking the petitioner whether such objections were filed. Since the petitioner failed to respond to such notice, he submits that the impugned assessment order was issued.

5. The Income-tax Act enables a person who receives a draft assessment order under Section 144C to file objections before the Dispute Resolution Panel. In the case at hand, the petitioner filed objections and there is evidence that the Dispute Resolution Panel received such objections on 12.01.2024. The impugned order is clearly subsequent thereto. As

contended by learned senior standing counsel for the respondents, the petitioner should have informed the National Faceless Assessment Unit that objections were filed before the Dispute Resolution Panel. Nonetheless, the issuance of the impugned assessment order while the objections of the petitioner are pending before the Dispute Resolution Panel causes great prejudice to the petitioner especially in view of the fact that the transfer pricing officer had directed variations in the income. For such reason, the impugned order calls for interference.

6. Therefore, the impugned assessment order is quashed and, 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.7369 of 2024 is disposed of on the above terms. Consequently, connected miscellaneous petitions are closed. No costs.

22.03.2024

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

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