IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.8303 of 2024 and W.M.P.Nos. 9269 & 9270 of 2024

M/s. Emjay Steel Udyog Private Limited,
Rep.by its Director,
Mr. C.S.N. Mohan. ... Petitioner

Versus

1.Interim Board for Settlement
Bench– II, 9th Floor, Lok Nayak Bhavan,
Khan Market,
New Delhi – 110 003.
Successor of the erstwhile
Income Tax Settlement Commission,
Additional Bench,
Chennai – 600 035.

2.Principal Commissioner of Income Tax,
Central Circle-1,
Chennai – 600 0034.

3.Assistant Commissioner of Income Tax,
Central Circle – 1(1),
Chennai – 600 034.

4.The Central Board of Direct Taxes,
Represented by its Corporation,
Department of Revenue – Ministry of Finance,
Government of India,
New Delhi. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Declaration, calling for the records on the file of the 1st Respondent in PAN AACCE4753D and quash the impugned order u/s 245D (4) of the income Tax Act 1961 in settlement Application No TN/CN 51/2021-22/35/IT dated 29.12.2023 passed by the 1st Respondent for the AY 2014-15 to 2019-20 as arbitrary illegal and against the settled principles of law

For Petitioner : Mr. R. Sivaraman

For Respondents : Mr. A.N.R. Jayaprathap,
Junior standing counsel.

ORDER

By this writ petition, the order of the Interim Board for Settlement (the *Interim Board)* dated 29.12.2023 is challenged insofar as it pertains to M/s. Emjay Steel Udyog Private Limited. By concluding that notices under Section 153C of the Income Tax Act, 1961 (*I-T Act),* were issued only on 18.03.2021 in respect of the relevant assessment years, the Interim Board concluded that the petitioner is not eligible to file a settlement application because no proceedings were pending as on 31.01.2021. The present writ petition was filed in the said facts and circumstances.

2. The petitioner had applied to the Interim Board settlement in respect of multiple assessment years running from assessment years 2014-15 to 2019-20. As regards all these assessment years, the application was considered as invalid on the ground that the assessee had not filed the return of income as on 31.01.2021. The present writ petition arises in the said facts and circumstances.

3. Learned counsel for the petitioner invited my attention to the impugned order and pointed out that the Interim Board concluded that there is no deemed pendency as per clause (iv) of the Explanation of Section 245A of the Income Tax Act, 1961 (*I-T Act).* By referring to the Division Bench judgment of this Court, learned counsel pointed out that the Division Bench concluded that all applications in respect of cases arising between 01.02.2021 and 31.03.2021 shall be deemed to be pending applications. He also pointed out that this result was arrived at by reading down Section 245C(5) of the I-T Act, by substituting 01.02.2021 with 31.03.2021. He also referred to a later judgment of the Division Bench of this Court in *Ashwini Fisheries Pvt. Ltd. v. Principal*

Commissioner of Income Tax and Ors., order dated 26.03.2024, wherein the Division Bench directed the Settlement Commissioner to act on the basis of the earlier judgment of the Division Bench of this Court.

4. Mr. A.N.R. Jayaprathap, learned junior standing counsel appears on behalf of the respondent. He submits that the judgment of the Division Bench may not have been brought to the notice of the Interim Board.

5. The operative portion of the judgment of the Division Bench of this Court reads as under:-

> *" 42.In the result, these writ petitions are partly allowed and are disposed off on the following terms :-*
>
> *(i) Section 245C(5) of the Income Tax Act, 1961 (as amended by the Finance Act, 2021) is read down by removing the retrospective last date of 1st date of February, 2021 as 31st day of March, 2021;*
>
> *(ii) Consequently the last date of eligibility mentioned paragraph 4(i) of the impugned circular dated 28.09.2021 shall also be read as 31.03.2021;*
>
> *(iii) All the applications in respect of the petitioners even in respect of the cases arising between*

01.02.2021 to 31.03.2021 shall be deemed be pending applications and shall be deemed to be pending applications for the purposes of consideration by the Interim Board;

(iv) Wherever they are rejected on the ground that they did not have a case pending as on 31.01.2021, such orders shall stand set aside and the applications shall be deemed to be pending applications for the consideration by the Interim Board, if otherwise in order and eligible, and shall be dealt with in accordance with law on merits in accordance with the scheme that may be framed by the Central Government as in respect of the other cases which arose prior to 31.01.2021;"

6. The said judgment is squarely applicable to the facts of this case since proceedings are deemed to have commenced prior to 31.03.2021. By following the judgment of the Division Bench, I set aside the impugned order. As a corollary, the matter is remanded to the Interim Board for Settlement for reconsideration in the light of the judgment of the Division Bench. The Interim Board for Settlement shall dispose of these proceedings as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order.

7. W.P.No.8303 of 2024 is disposed of on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

25.04.2024
(2/2)

Index : No
Speaking Order : Yes
Neutral Case Citation: No

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To

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SENTHILKUMAR RAMAMOORTHY,J.

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