IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.9851 and 9856 of 2022
and
W.M.P.Nos.9563, 9566, 9569, 9572, 9573 and 9576 of 2022

E2e Supply Chain Solutions Ltd
Rep by its Director R.Vasudevan
Nos.534 East Coast Centre,
4th Floor, Anna Salai,
Teynampet,
Chennai – 600 018.
PAN:AABCE7932P ... Petitioner in both W.Ps.

Vs.

1.The Deputy Commissioner of Income Tax,
National e-Assessment Centre,
Delhi E-Ramp,
Jawaharlal Nehru Stadium,
Delhi – 110 003.

2.The Assistant Commissioner of Income Tax,
Corporate Circle – 2(1), Chennai
Income Tax Department,
121, Nungambakkam High Road,
Nungambakkam,
Chennai – 600 034.

3.The Principal Commissioner of Income Tax,
Chennai – 2,
Income Tax Department,
121, Nungambakkam High Road,
Nungambakkam,
Chennai – 600 034. ... Respondents in both W.Ps

Prayer in W.P.No.9851 of 2022: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the writ petitioner company on the file of the first respondent to quash the impugned order dated 30.03.2022 passed under Section 147 r.w.s. 144 & 144B of the Act for the Assessment Year 2014-15 in ITBA/AST/S/147/2021-22/1042021226(1) and consequently to direct the said 1st respondent to share the material relied upon for assumption of jurisdiction and grant reasonable opportunity of hearing before completing the fresh assessment.

Prayer in W.P.No.9856 of 2022: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the writ petitioner company on the file of the first respondent to quash the impugned order dated 30.03.2022 passed under Section 147 r.w.s. 144 & 144B of the Act for the Assessment Year 2015-16 in ITBA/AST/S/147/2021-22/1042020849(1) and consequently to direct the said 1st respondent to share the material relied upon for assumption of jurisdiction and grant reasonable opportunity of hearing before completing the fresh assessment.

For Petitioner (in both W.Ps)	:	Mr.A.S.Sriraman
For Respondents (in both W.Ps)	:	Mr.B.Ramanakumar Senior Standing Counsel

COMMON ORDER

By this common order, both these Writ Petitions are being disposed of.

2. In these Writ Petitions, the petitioner has challenged the notice issued under Section 148 of the Income Tax Act, 1961 as it stood prior to 01.04.2021 on 31.03.2021 for the respective Assessment Years. Earlier, the assessments were completed under Section 143(3) of the Income Tax Act, 1961 and was sought to be re-opened by virtue of the impugned notice dated 31.03.2021 which culminated in a speaking order dated 08.12.2021 and Assessment Order dated 30.03.2022 for the Assessment Year 2014-2015. Reasons that were furnished to the petitioner vide notice under Section 143(2) read with Section 147 of the Income Tax Act, 1961 refers to the purported credit in the Bank Account of an employee namely Meruva Sanjeeva Kumar by cash to the tune of Rs.30,32,416/- by the assessee

company in Account No.067501501730 in ICICI Bank, Vadodara Branch. Relevant portion of the reasons provided for re-opening of the Assessment reads as under:-

> *"On verification of the bank statements, it was observed that credits in the bank account of Sri Meruva Sanjeeva Kumar are by cash to the tune of Rs.30,32,416/- made by the assessee company in account No.067501501730 in M/s ICICI Bank, Vadodara Branch used to transfer money as well as deposited cash for disbursement of the same to lorry drivers and also for other expenses, which clearly attracts the provisions of section 40A(3) of the IT act, in the hands of M/s E2E Supply Chain Solutions Limited, for the F.Yr. 2013-14 relevant to the AY.2014-15. The same has to be added back to the total income of the assessee company under the provisions of Section 40A(3) of the Income Tax Act."*

3. Similarly, for the Assessment Year 2015-2016, reasons furnished for re-opening of the Assessment vide a separate notice issued on 30.04.2021 under Section 143(2) of the Income Tax Act read with Section 147 of the Income Tax Act, 1961. The petitioner in its reply has merely referred to the bank transactions with the said employee which has been rejected. The defense that is forthcoming from the Department is that the details of the account need not be furnished at the time of re-opening of the Assessment, as long as there are information available for the Department for re-opening of the Assessment after it was completed.

4. The petitioner has challenged the notice on the ground that the notice has been issued after 01.04.2021 and therefore without jurisdiction and ought to have been completed in accordance with the new provisions as in force from 01.04.2021 in terms of the decision of the Hon'ble Supreme Court in the case of **Union of India and others** Vs **Ashish Agarwal**, 2022 SCC Online SC 543.

5. It is also submitted that once the proceedings are without jurisdiction they go to the root of the matter and therefore notwithstanding the fact that speaking order was passed for the respective Assessment Year on 08.12.2021, the further proceedings which has culminated in the impugned Assessment order dated 30.03.2022 are liable to be declared as without jurisdiction and quashed.

6. The learned Senior Standing Counsel for the respondents on the other hand would submits that impugned orders are well reasoned and does not merit any interference in the hands of this Court under Article 226 of the Constitution of India. It is submitted that the petitioner has merely attempted

to distance its liability by referring to the bank transfers made from its account to the said employee which was not relevant. It is submitted that informations based on which the proceedings were initiated and completed need not be furnished to the petitioner.

7. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents.

8. Although the re-opening of the Assessment based on the informations gathered from the Investigating Wing of the Income Tax Department from Tirupathi vide Letter No.ADIT/U-IV/TPT/2019-20/PVR dated 04.02.2020 would arm the Department to re-open the Assessment, the ultimate Assessment Order that was passed ought to have give the particulars of the cash transactions of the account of the said employee namely Meruva Sanjeeva Kumar. This has not been mentioned in the impugned order. Therefore, the impugned order is set aside and the case is remitted back to the respondents to pass a fresh order giving the particulars of the date of cash transactions made into the account of the said employee namely Meruva Sanjeeva Kumar. Therefore, the impugned orders are set aside and to pass a

fresh order on merits. The Department shall furnish the date of transfers mentioned in the reasons given for re-opening the respective Assessment and any other informations based on which, such cash deposits into the account of the said employee is linked to the petitioner. Since the dispute pertains to the Assessment years 2014-15 and 2015-16, it is expected that the denovo proceedings will be completed as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of this order.

9. These Writ Petitions stand disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous petitions are closed.

29.11.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
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To

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C.SARAVANAN, J.

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