IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.10710 and 10712 of 2022
and
W.M.P.Nos.10344, 10345, 10351 and 10352 of 2022

M/s.Vadodara Bharuch Tollway Limited,
Represented by its Director
Mr.Pramod Sushila Kapoor ... Petitioner in both W.Ps

Vs.

1.The Income Tax Officer,
Corporate Ward 3(3),
121, Nungambakkam High Road,
Chennai – 600 034.

2.The Deputy Commissioner of Income Tax,
Corporate Circle 3(1),
121, Nungambakkam High Road,
Chennai – 600 034.

3.The Additional/Joint/Delhi/Assistant
Commissioner of Income Tax,
Income-tax Officer,
National e-Assessment Centre, Delhi. ... Respondents in both W.Ps

Prayer in W.P.No.10710 of 2022: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the file of the respondents and quash the Impugned Notice in PAN:

AABCL1811C dated 31.03.2021 in DIN & Notice No.ITBA/AST/S/148/2020-2021/1031997814(1) issued by the second respondent under Section 148 of the Income Tax Act along with the Impugned Order dated 31.03.2022 in DIN No.ITBA/AST/S/147/2021-2022/1042305395(1) passed by the third respondent under Section 147 read with Section 144B of the Act for the Assessment Year 2015-2016.

Prayer in W.P.No.10712 of 2022: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the file of the respondents and quash the Impugned Order in PAN: AABCL1811C dated 29.03.2022 in DIN & Order No.ITBA/REC/S/154-1/2021-2022/1041965177(1) issued by the first respondent under Section 154 read with Section 143(3) of the Income Tax Act for the Assessment Year 2015-2016.

For Petitioner (In both W.Ps)	:	Ms.N.V.Lakshmi
For Respondents (In both W.Ps)	:	Mrs.S.Premalatha Junior Standing Counsel

COMMON ORDER

By this Common Order, both the Writ Petitions are being disposed of.

2. In W.P.No.10710 of 2022, the petitioner has challenged the Impugned Assessment Order dated 31.03.2022 passed by the 3rd respondent under Section 147 read with Section 144B of the Income Tax Act, 1961 for the Assessment

Year 2015-2016 pursuant to a Notice issued under Section 148 of the Income Tax Act, 1961 on 31.03.2021.

3. In W.P.No.10712 of 2022, the petitioner has challenged the Impugned Order dated 29.03.2022 passed by the Income Tax Officer the 1st respondent under Section 154 read with Section 143(3) of the Income Tax Act, 1961 for the Assessment Year 2015-2016.

4. Both these Orders arise out of an Assessment that was completed earlier by the Assessing Officer on 29.12.2017.

5. The assessment was reopened under Section 148 of the Income Tax Act, 1961 pursuant to which, the Impugned Assessment Order dated 31.03.2022 has been passed by the 3rd respondent.

6. Both the orders dealt with the same issue as is evident from a reading of the reasons communicated to the petitioner on 24.09.2021 in response to query of the petitioner after notice dated 31.03.2021 was issued to the petitioner under Section 148 of the Income Tax Act, 1961.

7. In the Counter Affidavit that has been filed by the Jurisdictional Assessing Officer in response to W.P.No.10710 of 2022 wherein it is stated that the Impugned Assessment Order dated 31.03.2022 was passed under Section 147 read with Section 144B of the Income Tax Act, 1961 for the Assessment Year 2015-2016 pursuant to a Notice issued under Section 148 of the Income Tax Act, 1961 on 31.03.2021 concerned is that since the Impugned Assessment Order dated 31.03.2022. It is stated that the petitioner should be asked to workout the remedy before the Appellate Commissioner against the Impugned Assessment Order passed on 31.03.2022.

8. In the Counter Affidavit that has been filed in response to W.P.No.10712 of 2022 wherein, the Impugned Assessment Order dated 29.03.2012 passed under Section 154 read with Section 143(3) of the Income Tax Act for the Assessment Year 2015-2016 is concerned, the respondents have stated that both the proceedings were going before 2 different Assessing Officers namely the 1st and the 2nd respondent i.e., the Income Tax Officer and the Deputy Commissioner of Income Tax without knowledge of each other. Hence, the Additional Commissioner of Income Tax the 3rd respondent did not

take cognizance of the Order passed on 29.03.2022 under Section 154 read with Section 143(3) of the Income Tax Act, 1961.

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

10. Whichever way one looks at the petitioner has to file an appeal against the Order passed under Section 147 read with Section 144B of the Income Tax Act, 1961 on 31.03.2022 or the Order passed under Section 154 read with Section 143(3) of the Income Tax Act, 1961 on 29.03.2022. Both have similar impact on the petitioner.

11. The petitioner can therefore be asked to workout the appellate remedy against the Impugned Order dated 29.03.2022 which rectifies the earlier Order dated 29.12.2017 which was also sought to be revised pursuant to the Notice dated 31.03.2021 issued under Section 148 of the Income Tax Act, 1961.

12. Under these circumstances, both the Writ Petitions are disposed with liberty to the petitioner to challenge the Impugned Assessment Order dated 31.03.2022 and the Rectification Order dated 29.03.2022 before the Commissioner of Income Tax (Appeals) within a period of 30 days from the date of receipt of a copy of this order. No costs. Connected Writ Miscellaneous Petitions are closed.

19.11.2024

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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