IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **18.04.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.10435 of 2024
&
WMP Nos.11422 & 11423 of 2024

S.V.K.Estates,
Represented by its Partner,
Vijay urana J.
2, Arava Muthu Garden Street,
Egmore, Chennai-600 008. ... Petitioner

-vs-

1. Assistant Commissioner of Income Tax,
Non-Corporate Circle 7(1),
No.121, M.G.Road, Nungambakkam,
Chennai-600 0034.

2. The Assessment Unit,
Income Tax Department,
Ministry of Finance
Government of India
Delhi. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the records of the Respondents contained in its notice bearing DIN & Notice No.ITBA/AST/S/148/2020-21/1031734142(1), dated 24.03.2021, issued by the 1st Respondent under Section 148 of the Income Tax Act, 1961, and all proceedings in furtherance thereof, including the assessment order bearing DIN: ITBA/AST/S/144/2023-24/1063528371(1), dated 28.03.2024 passed by the 2nd Respondent under Section 144 read with Sections 260 and 144B of the Income Tax Act, 1961, and the notice of demand bearing DIN & Notice No.ITBA/AST/S/156/2023-24/1063528476(1), issued by the 2nd Respondent under Section 156 of the Income Tax Act, 1961, dated 28.03.2024, for PAN: ACDFS5437L for Assessment Year 2015-16, and to quash the same as arbitrary, illegal and unjust, and to consequently forbear the Respondents or its superiors, subordinates, agents etc. from re-assessing the Petitioner's income for the assessment year 2015-16 under Section 147 of the Income Tax Act, 1961.

For Petitioner : Mr.Suhrith Parthasarathy

For Respondents : Mr.D.Prabhu Mukunth Arunkumar
Junior Standing Counsel (Taxes)

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ORDER

An assessment order dated 28.03.2024 is challenged in this writ petition.

2. An assessment order was issued earlier on 30.03.2022. Such order was challenged by filing W.P.No.11088 of 2022. By order dated 17.07.2023, the assessment order was set aside and the matter was remanded for reconsideration and for issuance of orders within six months. The order impugned herein was issued thereafter.

3. The main ground on which the writ petition is filed is that the petitioner was not provided a copy of the statement of his vendor, Mr.Ramraj, and was not permitted to cross-examine such vendor. Learned counsel for the petitioner invited my attention to letters issued previously by Mr.Ramraj on 13.08.2014 and 28.03.2022

to contend that the petitioner was deprived of a reasonable opportunity by not being provided a copy of the subsequent statement of Mr.Ramraj and by denying cross-examination.

4. Mr.D.Prabhu Mukunth Arulraj, learned junior standing counsel, accepts notice for the respondents. By referring to both the sale deed and the plaint filed by the petitioner and Mr.Ramraj before the District Munsif, Chenglepet, in O.S.No.158 of 2015, he contends that the receipt of the total consideration of Rs.3,75,00,000/- is admitted both in the sale deed and in the suit filed by the petitioner and Mr.Ramraj.

5. Upon considering the above submissions and on examining the documents on record, I find that this is not an appropriate case to exercise discretionary jurisdiction. Consequently, W.P.No.10435 of 2024 is disposed of by leaving it open to the petitioner to file a statutory appeal. If such appeal is filed within three weeks from the

date of receipt of a copy of this order, the appellate authority is directed to receive and dispose of such appeal on merits without going into the question of limitation. Consequently, connected miscellaneous petitions are closed. No costs.

18.04.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

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SENTHILKUMAR RAMAMOORTHY,J

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To

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2. The Assessment Unit,
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