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W.P.No.12659 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.12659 of 2024
and W.M.P.Nos.13815 & 13817 of 2024

Sanmar Group Corporate Finance,
9, Cathedral Road,
Chennai 600 086,
Represented by its Partner

... Petitioner

-VS-

1. The Assessment Unit,
Income Tax Department,
New Delhi.

2. The Deputy Commissioner of Income Tax,
Non-Corporate Circle 3(1),
121, M.G.Road, Nungambakkam,
Chennai 600 034.

... 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 Petitioner on the file of the Respondent and quash the Impugned Assessment Order in DIN: ITBA / AST / S / 2143 (3) / 2023-24/



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1063613840 (1) dated 29.03.2024 for the Assessment Year 2022-23 in

PAN: AAQFS7640N and quash the same.

For Petitioner : Mr.R.Vijayaraghavan
Mr.Venkat Narayanan
for M/s.Subbaraya Aiyar Padmanaban
Ramamani

For Respondents1 : Mr.V.Mahalingam, Sr. Standing Counsel
Mr.S.Rajasekar, Jr. Standing Counsel

ORDER

An assessment order dated 29.03.2024 is subject to challenge in this writ petition.

2. The petitioner is a partnership firm which has six partners. During assessment year 2022-2023, the petitioner asserts that capital contributions were received from four of those partners, namely, Mrs.Bhavani Kumar, Mathura Kumar Properties Private Limited, Serenity Trust and V S Trading and Consultancy Private Limited. According to the petitioner, in response to the show cause notice and preceding notices under Section 142(1) of the Income-tax Act, 1961,



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the petitioner had provided an adequate explanation and enclosed all relevant documents to establish the capacity of the partners and the flow of funds to the partnership firm. Since the impugned order was issued proposing variations in respect of the above in spite of such submissions, the present writ petition was filed.

3. Learned counsel for the petitioner submitted that the petitioner had placed on record documents to establish the source of funds in respect of each partner. He first dealt with V S Trading and Consultancy Private Limited. As regards this entity, by referring to the balance sheet for financial year ended 31.03.2022, he pointed out that the company had reserves and surplus of Rs.39.26 crores. He also pointed out that the bank balance as on 31.03.2022 was Rs.48.71 lakhs. By referring to the cash flow statement, he pointed out that such statement indicates an investment of about Rs.23.80 crores in the petitioner firm. He also referred to the statement of account maintained by V S Trading and Consultancy Private Limited in the



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Punjab National Bank as indicating an opening balance of about Rs.22.95 crore as on 03.04.2021. Because the assessing officer only examined the statement of account from 07.04.2021, he contends that all these aspects were not noticed.

4. He next dealt with Serenity Trust. As regards Serenity Trust, he pointed out that the statement of account maintained in the Punjab National Bank had been submitted. He pointed out that such statement clearly shows credit of Rs.47,99,348/- on 21.04.2021. With regard to Madhura Kumar Properties Private Limited, he referred to the profit and loss account for the year ended 31.03.2022 and pointed out that the entity recorded a net profit of Rs.7.74 lakhs during the relevant year which is in excess of the contribution made by the said entity during the relevant year. As regards Bhavani Kumar, he referred to the bank statement and pointed out that it clearly establishes that sufficient funds were available and that such funds were transferred to the petitioner.



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5. In response to these submissions, Mr.V.Mahalingam, learned senior standing counsel, who accepted notice on behalf of the respondents, submitted that the assessing officer duly considered the submissions of the petitioner and the evidence placed on record. Upon such examination, he pointed out that findings were recorded by appraising evidence. He points out that the petitioner only placed on record the bank statement of V S Trading and Consultancy Private Limited in Punjab National Bank. On scrutiny of such bank statement, he submits that it only reflects the transfer of about Rs.35 lakhs to the petitioner. As regards Madhura Kumar Properties Private Limited, he submits that the generation of a net profit of about Rs.7.74 lakhs does not per se evidence the transfer of such amount to the petitioner. By referring to the impugned order in this regard, he points out that it was recorded therein that the petitioner did not submit the bank statement of V S Trading and Consultancy Private Limited relating to the accounts held in Bank of



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Mahatrashta or UCO Bank. Therefore, he submits that the petitioner should avail of the statutory remedy and that no case is made out for interference under Article 226.

6. On examining the impugned assessment order, as regards V S Trading and Consultancy Private Limited, it is noticeable that the assessing officer has focused on the bank statement relating to Punjab National Bank. There is no discussion at all with regard to the financial statement of V S Trading and Consultancy Private Limited, including the cash flow statement appended thereto. As regards Serenity Trust, it is noticeable that the assessing officer disregarded the credit entry of Rs.46,50,000/- merely because there was a debit entry on the same date. As regards Bhavani Kumar, the bank statement has not been examined. With regard to Madhura Kumar Properties Private Limited, it appears that the variation was confirmed on account of non-production of the bank statement.



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WEB COPY 7. In the ultimate analysis, it appears *prima facie* that the petitioner has placed on record sufficient evidence of the financial capability of the partners. In certain cases, the flow of funds has been established whereas it has not been established in others. By taking into account the fact that an addition of about Rs.24.50 crores has been made, the interest of justice warrants that the petitioner be provided another opportunity by remanding the matter.

8. For reasons set out above, the impugned order dated 29.03.2024 is set aside and the matter is remanded for reconsideration. The petitioner is permitted to submit additional documents, if any, within *fifteen days* from the date of receipt of a copy of this order. For such purpose, the respondent shall take necessary steps to provide access to the portal. Upon receipt thereof, the first respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing through video



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conference, and thereafter issue a fresh order within three months from the date of receipt of such additional documents.

9. W.P.No.12659 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.13815 & 13817 of 2024 are closed.

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

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To

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Income Tax Department,
New Delhi.
2. The Deputy Commissioner of Income Tax,
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SENTHILKUMAR RAMAMOORTHY J.

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