IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2024

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.18449 and 18451 of 2022
and
W.M.P.Nos.17795 and 17797 of 2022

M/s.Eveready Spinning Mills P Ltd,
(Represented by its Director)
16/23, Jothi Theatre Road,
Tirupur,
Tamilnadu – 641 601.
PAN:AAACF9159Q ... Petitioner in both W.Ps

Vs.

1.The Deputy Commissioner of Income Tax,
Transfer Pricing Range – 1(2),
Income Tax Department,
BSNL Tower, No.16, Greams Road,
Chennai – 600 006.

2.The Deputy Commissioner of Income Tax,
National Faceless Assessment Centre,
Delhi,
Room No.401, 2nd Floor,
E-Ramp, Jawaharlal Nehru Stadium,
Delhi – 110 003.

3.The Principal Commissioner of Income Tax,
Coimbatore – 1,
Income Tax Department,
No.67A, Annex Building,
Race Course Road,
Coimbatore – 641 018.

4.The Dispute Resolution Panel – 2,
Income Tax Department,
'A' Wing, 4th Floor, Kendriya Sadan,
Koramangala,
Bengaluru – 560 034.

5.The National Faceless Appeal Centre,
C-Block, 4th Floor,
S.P.M.Civic Centre,
New Delhi – 110 001. ... Respondents in both W.Ps

Prayer in W.P.No.18449 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 4th respondent to quash the directions/impugned order dated 13.06.2022 issued under Section 144C(5) of the Act for the Assessment Year 2018-19 in F.No.228/DRP-2/BANG/2021-22 with a direction to adjudicate the objections raised before them as part of the statutory Form No.35A filed on 25.10.2021.

Prayer in W.P.No.18451 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 of the Writ Petitioner Company on the file of the 2nd respondent to quash the impugned order dated 25.11.2021 passed under Section 143(3)/144C(30 read with Section 144B of the Act for the Assessment Year 2018-19 in DIN & Order No.ITBA/AST/S/143(3)/2021-22/1037213267(1).

For Petitioner (in both W.Ps) : Mr.Girish Kumar for Mr.S.Sridhar

For Respondents (in both W.Ps) : Mr.A.P.Srinivas Senior Standing Counsel and Mr.A.N.R.Jayaprathap Junior Standing Counsel

COMMON ORDER

In W.P.No.18449 of 2022, the petitioner has challenged the impugned proceedings/directions dated 13.06.2022 of the Dispute Resolution Panel pursuant to a Draft Assessment Order dated 28.09.2021. In W.P.No.18451 of 2022, the petitioner has challenged the impugned Assessment Order dated 25.11.2021.

2. The petitioner is an eligible assessee. After the Draft Assessment Order was passed on 28.09.2021, the petitioner had filed an application before the Dispute Resolution Panel under section 144C(1) of the Income Tax Act, 1961 in Form No.35A. As per Sub-Section 2 to Section 144C of the Income Tax Act, 1961 where an eligible assessee is aggrieved by the Draft Assessment Order it/he has to file an objection with the Dispute Resolution Panel and with the Assessing Officer. In the present case it appears that there were certain technical glitches which disabled the petitioner to comply with the second requirement of filing an objection with the Assessing Officer.

3. As a result, the impugned Assessment Order dated 25.11.2021 has been passed by the Assessing Officer which is impugned in W.P.No.18451 of 2022.

4. The Dispute Resolution Panel has also issued directions on 13.06.2022. This Court has come to the rescue of the petitioner, under similar circumstances in W.P.No.7369 of 2024 vide order dated

22.03.2024 in the case of ***M/s.Multicoreware India P Ltd*** Vs. ***The Assessment Unit, Income Tax Department, National e-Assessment Centre, Delhi E-Ramp, Jawaharlal Nehru Stadium, Delhi – 110 003 and others***. Relevant portion from the said order reads as under:-

> "*5.The Income-tax Act enables a person who receives a draft assessment order under Section 144C to file objections before the Dispute Resolution Panel. In the case at hand, the petitioner filed objections and there is evidence that the Dispute Resolution Panel received such objections on 12.01.2024. The impugned order is clearly subsequent thereto. As contended by learned Senior Standing Counsel for the respondents, the petitioner should have informed the National Faceless Assessment Unit that objections were filed before the Dispute Resolution Panel. Nonetheless, the issuance of the impugned Assessment Order while the objections of the petitioner are pending before the Dispute Resolution Panel causes great prejudice to the petitioner especially in view of the fact that the transfer pricing officer had directed variations in the income. For such reason, the impugned order calls for interference.*
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> *6.Therefore, the impugned Assessment Order is quashed and, as a consequence, the assessing officer is directed to await the decision of the Dispute Resolution Panel before issuing a fresh assessment Order. W.P.No.7369 of 2024 is disposed of on the above terms. Consequently, connected miscellaneous petitions are closed. No costs.*"

5. Since the petitioner was disabled from forwarding the objection to the Assessing Officer, the order has been now passed by the Assessing

Officer without awaiting for the order of the Dispute Resolution Panel. Therefore, the impugned Assessment Order dated 25.11.2021 is liable to be quashed and it is accordingly quashed. Since the Dispute Resolution Panel has rejected the application filed by the petitioner, in view of the impugned Assessment Order dated 25.11.2021, directions of the Dispute Resolution Panel dated 13.06.2022 is also liable to be set aside. Accordingly, the matter is remitted back to the Dispute Resolution Panel to pass a fresh order on merits and in accordance with law. The Assessing Officer shall thereafter pass a fresh order on merits and in accordance with law.

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

05.12.2024

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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