IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2024

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.Nos.24329 and 24331 of 2021
and
W.M.P.Nos.25636, 25637, 25638, 25639 of 2021 and
20428, 20429, 26520 and 26523 of 2022

M/s.Danfoss Industries Private Limited,
Represented by its Authorized Signatory,
Mr.G.Ganapathy Subramanian,
(Vacon Drives and Controls Private Limited has since
Amalgamated with
M/s Danfoss Industries Private Limited)
Unit No.602, 6th Floor, 4B Campus, RMZ Millenia Business Park II,
143, Dr.MGR Road, Perungudi,
Chennai – 600 096,
Tamil Nadu,
India. ... Petitioner in both W.Ps.

Vs.

The Additional/Joint/Deputy/Assistant Commissioner of Income Tax/Income Tax Officer,
National e-assessments Centre,
Delhi. ... Respondent in both W.Ps.

Prayer in 24329 of 2021: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari to call for the records on the file of the Respondent and quash the Impugned Order in ITBA/AST/S/147/2021-22/1035887075(1) dated 25.09.2021 under Section 147 r.w.s 144 read with Section 144B of the Income Tax Act, 1961 passed by the Respondent.

Prayer in 24331 of 2021: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari to call for the records on the file of the Respondent and quash the Impugned Order in ITBA/AST/S/147/2021-22/1035887136(1) dated 25.09.2021 under Section 147 r.w.s 144 read with Section 144B of the Income Tax Act, 1961 passed by the Respondent.

For Petitioner : Mr.R.Sivaraman
(in both W.Ps.)

For Respondent : Mr.Prabhu Mukunth Arunkumar
Junior Standing Counsel
(in both W.Ps.)

COMMON ORDER

In these two Writ Petitions, the Petitioner has challenged the respective Assessment Orders both dated 25.09.2021 passed by the Respondent for the Assessment Years 2013-2014 and 2014-2015.

2. The Petitioner is the transferee company. M/s.Vacon Drives and

Controls Pvt. Ltd. had got amalgamated with the Petitioner Company by virtue of Order dated 17.04.2017 of the National Company Law Tribunal, Chennai Bench ("NCLT") in TP(HC)/CAA/37/2017 with effect from 01.01.2017.

3. The case of the Petitioner is that the Petitioner was not served with the notices and thus, the Impugned Order has been passed in gross violation of principles of natural justice.

4. In any event, the learned counsel for the Petitioner would submit that the Petitioner has a fair case on merits and if an opportunity is given to the Petitioner, the Petitioner will be in a position to explain the case. Hence, he prays for quashing of the Impugned Order.

5. On the other hand, learned Junior Standing Counsel for the Respondent would submit that after the date of amalgamation on 17.04.2017 with effect from 01.01.2017, Returns were filed for the Assessment Year 2017-2018 in the name of the transferor company viz., M/s.Vacon Drives and Controls Pvt. Ltd. on 28.11.2017 and that an Assessment Order was passed

for the Assessment Year 2015-2016 against which an appeal was filed before the CIT Appeals on 14.02.2018 in the name of the transferor company viz., M/s.Vacon Drives and Controls Pvt. Ltd.

6. It is therefore submitted that the Petitioner cannot fail ignorance of the notices that preceded the Impugned Order.

7. Having considered the submissions of the learned counsel for the Petitioner and the learned Junior Standing Counsel for the Respondent, I am of the view that the Petitioner can be given one opportunity to vent out the grievance.

8. Under these circumstances, the Impugned Orders both dated 25.09.2021 are quashed and the case is remitted back to the Respondent to pass a fresh Order on merits and in accordance with law as expeditiously as possible preferably within a period of six (6) months from the date of receipt of a copy of this order. The respective Impugned Orders dated 25.09.2021 stands quashed by this Order shall be treated as addendum to the Show Cause Notice. The Petitioner shall file a reply both manually and shall keep

the reply and shall file the same as and when the Petitioner receives intimation in the web-portal through e-mail. Needless to state, the Respondents are directed to take steps to open the portal to facilitate the Petitioner to file/upload the reply.

9. Writ Petition stands disposed of with the above observations and directions. No costs. Consequently, connected Miscellaneous Petitions are closed.

27.08.2024

Index : Yes/No
Speaking/Non-speaking Order
Neutral Citation :Yes/No
rgm

C.SARAVANAN, J.

rgm

To

The Additional/Joint/Deputy/Assistant Commissioner of
Income Tax/Income Tax Officer,
National e-assessments Centre,
Delhi.

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and
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