T.C.(A) No.192 of 2024

Dr.ANITA SUMANTH,J.
and
G.ARUL MURUGAN,J.

(Order of the Court was made by Dr.ANITA SUMANTH.,J.)

In this Tax Case (Appeal), the challenge is to an order of the Income Tax Appellate Tribunal (in short 'ITAT'/'Tribunal') for the assessment year 2017-18, which is dated 20.10.2003.

2. The matter had come up for admission on 18.09.2024, and Mr.P.J.Rishikesh, learned counsel had accepted notice for the respondent/assessee. The matter was heard on the substantial questions of law on various dates and the following orders were passed:

> ***18.09.2024:***
> *Mr.PJ.Rishikesh, learned counsel takes notice for the respondent at the admission stage.*
> *2. Both the learned counsel want two weeks time to proceed further in this matter.*
> *3. Post the matter after two weeks*
> ***14.10.2024:***
> *At request of the learned counsel appearing for the appellant as well as the respondent, post the matter after two weeks.*
> *28.10.2024*
> *Post after two weeks*
> ***11.11.2024:***
> *Heard learned SSC for the appellant Revenue.*
> *In order to continue his arguments and produce the line of judgment supporting the question of law raised in this appeal, learned SSC seeks two weeks' time. Post after two weeks.*
> ***25.11.2024:***
> *Heard both learned counsel.*
> *2. The question relates to the date of service of the directions of the Dispute Resolution Panel (DRP) on the assessing officer qua com-*

putation of limitation under Section 144 C (13) of the Income Tax Act, 1961.

3. Mr.Narayanasamy, learned Senior Standing Counsel relies on a document that contains the following date and event:

> *03/02/2022 - Document Response received from Uploading of document based on DIN/PAN-AY screen*

4. The Income Tax (Dispute Resolution Panel) Rules, 2009 contain Rule 11 that states that 'the panel shall, after the directions are issued, communicate the same to the eligible assessee and to the assessing officer.'

5. The assessee has relied on the decisions of the Bombay High Court in Vodafone Idea Limited V. Central Processing Centre and others (459 ITR 413), Delhi High Court in Louis Dreyfus Company India Private Limited V. Deputy Commissioner of Income Tax, Circle 13(1) and others (W.P.(C) No.15381 of 2022 dated 30.01.2024) as well as an order of the learned single Judge of this Court in Taeyang Metal India Private Limited V. The Deputy Commissioner of Income-Tax, Corp Circle 3(1) and others (338 CTR (Mad) 161) for the proposition that the date of uploading of the directions of the DRP on the ITBA portal would be taken to be the date of service of the same on the assessing officer.

6. Two affidavits will be filed by the Department, one by the concerned Assessing Officer setting out the relevant date and sequence of events in relation to how and when the order was received by him and the second by the concerned authority in the Information Technology/Systems section of the Income Tax Department outlining the procedure followed by the National Faceless Assessment Centre (NFAC) in uploading of orders/service of summons/communication of the same to the assessee and assessing officers respectively.

7. In addition, Mr.Narayanasamy will also obtain instructions as to whether any appeal has been filed challenging the order of the single Judge in Taeyang Metal India Private Limited (supra).

8. List on 05.12.2024.

05.12.2024:

An affidavit has been filed by the Assessing Officer pursuant to our order dated 25.11.2024. There appears to be a change in the stand of the Department in so far as before the Tribunal, the stand was that the assessment order was sent by ITBA in electronic mode on 31.01.2022 (which we understand to mean uploaded in the ITBA on 31.01.2022). However, the Assessing Officer, at paragraph No.5 of the *affidavit, says that the assessment order was uploaded by CIT (DRP-2), Bengaluru through functionality in ITBA on 03.02.2022 only.*

2. A final opportunity is granted to the concerned Head of Information Technology Unit/Systems to file an affidavit along the lines required under order dated 25.11.2024 with a copy served in advance on the learned counsel for the assessee.

3. List on 19.12.2024.

3. Upon consent expressed by Mr.J.Narayanasamy, learned counsel for the appellant/revenue and Mr.Rishikesh for the assessee for final hearing of the matter, and having heard the detailed submissions of both learned counsel, the following substantial questions of law are admitted and the matter taken up for final hearing and disposed by way of a separate order. The substantial questions admitted for resolution are:

1. Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the date of receipt of the direction of the DRP by the Assessing Officer is 31.01.2022 being the date of uploading of the order of the DRP in the Departments portal/Website?

2. Whether on the facts and in the circumstances of the case, the Tribunal was right in not appreciating that the DRP order was only received by the Assessing Officer on 03.02.2022 as per the case history data and the completion of the proceedings by the AO on 22.03.2022 is within the time limit stipulated under Section 144C(13)?

[A.S.M.,J] **[G.A.M.,J]**
19.12.2024

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