BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD)No.5273 of 2022
and
W.M.P.(MD)Nos.4290 and 4292 of 2022

M/s.Essar Sign Industries,
No.31, Annamalaiyar Street,
Aruna Nagar,
Puthur, Trichy – 620 017. ... Petitioner

Vs.

1.The Income Tax Officer,
Ward 1(1), Trichy,
2nd Floor, Trichy Main Building,
Williams Road, Cantonment,
Trichy.

2.The Assessing Officer,
Income Tax Department,
National Faceless Assessment Centre,
Delhi. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari, to call for the records of the Petitioner on the file of first respondent and quash the impugned notice issued under Section 148 of the Act, dated 30.03.2021 in DIN and Notice No.ITBA/AST/S/148/2020-21/1031900750(1) in PAN: AABFE3066D and the consequential order disposing off objection in DIN

No.ITBA/AST/F/17/2021-22/1038831110(1) dated 18.01.2022 passed by the second respondent for the Assessment Year 2014-15.

For Petitioner : Mr.SP.Chidambaram

For Respondents : Mr.N.Dilipkumar
Senior Standing Counsel

ORDER

The petitioner is before this Court against the impugned order dated 18.01.2022 overruling the objection of the petitioner against re-opening of the assessment that was completed on 25.11.2016 under Section 143(3) of the Income Tax Act, 1961.

2. After the assessment was completed on 25.11.2016 under Section 143(3) of the Income Tax Act, 1961, the petitioner was issued with the impugned notice dated 30.03.2021 under Section 148 of the Income Tax Act, 1961 to re-open the assessment. The petitioner filed a return of income on 22.11.2021 and thereafter, furnished with the reasons for re-opening of the assessment, vide communication dated 20.12.2021. The reasons for re-opening of the assessment reads as under:-

"The assessee has claimed in the P&L account, interest of Rs.17,34,710/- to partners' capital account

of Rs.98,95,000/-. However, for the partner's current account of Rs.89,30,727/- shown on asset side, no interest was charged. Hence proportionate interest of Rs.15,65,662/-(17,34,710x89,30,727/9895000) is chargeable for the debit balance. (li) Commission on sale of UDS of Rs.41,25,000/- claimed as expenditure is unreasonable and excessive compared to the turnover of Rs.74,28,079/-"

3. The petitioner's objection dated 11.01.2022 has been rejected, which has now culminated in the impugned order dated 18.01.2022. The petitioner assails the impugned order on the ground that the second respondent has no jurisdiction to reopen the assessment, as the assessment order that was passed on 25.11.2016 has clearly recorded that the petitioner's representative appeared and filed copies of Return of Income, Profit and Loss Account, Balance Sheet, Books of Accounts, Bank Account Statements, TDS Returns etc. for the year ending on 31.03.2014.

4. It is noticed that the assessment order itself also records that the case was selected for scrutiny under CASS for the reasons mentioned that large commission payment against low net profit has been noticed and therefore, notice under Section 143(2) of the Income Tax Act, 1961 dated 18.09.2015 was issued and a further notice under Section 142(1) of the

Income Tax Act, 1961, dated 29.04.2016 was also issued to the petitioner. The same reason has been given for reopening of the assessment.

5. A reading of the above said assessment order and the reasons given for re-opening the assessment indicates that there is no case made out for reopening the assessment, as there is no suppression of fact by the petitioner before the assessment was completed under Section 143(3) of the Income Tax Act, 1961, on 25.11.2016. Therefore, the present Writ Petition deserves to be allowed and is accordingly, allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
smn2

12.06.2024

To

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2.The Assessing Officer,
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National Faceless Assessment Centre,
New Delhi.

C.SARAVANAN, J.

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W.P.(MD) No.5273 of 2022

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