IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-11-2025

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THE HONOURABLE MR JUSTICE C. SARAVANAN

WP No. 23508 of 2022
AND
WMP NO. 22467 OF 2022,WMP NO. 22468 OF 2022

1. M/s.Siemens Gamesa Renewable Power Private Ltd
represented by its Authorised Signatory,
Mr. Sridhar Swaminathan, NO.489,
GNT Road, Thandalakazhani,
Vadagarai Po, Redhills, Chennai - 600052.

Petitioner(s)

Vs

1. The Central board of Direct Taxes
represented by its Chairperson,
Department of Revenue - Ministry of Finance Government of india, New Delhi.

2.The Deputy Commissioner of Income Tax,
Corporate Circle -3(1), Chennai, No. 121 Mahatma Gandhi Road,
Nungambakkam, Chennai - 600034.

3.The Principal Chief Commissioner of
Income Tax,
No. 121 Mahatma Gandhi Road,
Nungambakkam, Chennai - 600034.

Respondent(s)

PRAYER

calling for the records in PAN AACCG6027C and quash the impugned order u/s 148A(d) of the Income Tax Act, 1961 in ITBA/COM/F/17/2022-23/1044248268(1) dated 28.07.2022 passed by the 2nd Respondent and the consequential notice u/s. 148 of the Income Tax Act, 1961 in ITBA/AST/M/148_11/2022-23/1044265947(1) dated 29.07.2022 issued by the 2nd Respondent for the AY 2014-15 as illegal and without jurisdiction

For Petitioner(s): R.Sivaraman
P.Rameshkumar
S.Srividya
Raghav Rajeev Menon
S.Gautham Venkata Narayanan

For Respondent(s): Mr. A.P. Srinivas
Senior Standing Counsel and
Mr.ANR Jayaprathap
Junior Standing Counsel

ORDER

In this writ petition, the petitioner has challenged the impugned order under Section 148A(d) of the Income Tax Act, 1961 dated 28.07.2022 and consequential notice issued under Section 148 of the Income Tax Act, 1961 dated 29.07.2022 for the assessment year April 2014- March 15. The facts on record reveal that the petitioner had earlier suffered an adverse order under Section 201(1) / 201 (1A) on 31.03.2021.

2. The aforesaid order is the basis of a notice dated 19.05.2022 issued under Section 148A(b) of the Income Tax Act, 1961, which has now resulted in the impugned order dated 28.07.2022 under Section 148A(d) and the impugned notice under Section 148 dated 29.07.2022.

3. The learned counsel for the petitioner submits that in so far as the demand covered by the order dated 31.03.2021 passed under Section 201(1) / 201 (1A) is concerned, the petitioner has opted to settle the dispute under the Direct Tax Vivad Se Vishwas Scheme by filing a declaration in Form 1 dated 31.01.2025, which is after the interim order was passed by this Court in this Writ Petition.

4. The aforesaid Form 1 was also accepted with issuance of Form 2 on 31.05.2025. The learned counsel for the petitioner also enclosed a copy of the same, indicating that the case has been settled.

5. The learned counsel for the petitioner would submit that although the petitioner has several other grounds to assail the impugned proceedings in this writ petition, the issue now squarely stands covered by clarification in S.No.22 to Circular No.12/2024 of the Central Board of Direct Taxes (CBDT) bearing reference F.No.370142/22/2024-TPL, which is a guidance note No.1/2024 regarding the provisions of the Direct Tax Vivad Se Vishwas Scheme, 2024.

6. Specifically, the learned counsel for the petitioner would submit that in terms of the S.No.22, above clarification, disallowance under Section 40(a)(i)(ia) of the Act cannot be sustained as the petitioner has already settled the liability under Section 201 of the Act under the Direct Tax Vivad Se

Vishwas Scheme, 2024. It is therefore submitted that the impugned proceedings are liable to be interfered with.

7. On the other hand, the learned counsel for the respondents would submit that the present writ petition is premature and therefore, it is liable to be dismissed. That apart, it is submitted that the assessment is squarely covered by the decision of the Hon'ble Supreme Court in **Union of India vs. Rajeev Bansal., 2024 SCC Online SC 2693** in paragraph No.114, which reads as under:

> *"**114.** In view of the above discussion, we conclude that:*
>
> *(a) After April 1, 2021, the Income-tax Act has to be read along with the substituted provisions;*
>
> *(b) Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 will continue to apply to the Income-tax Act after April 1, 2021 if any action or proceeding specified under the substituted provisions of the Income-tax Act falls for completion between March 20, 2020 and March 31, 2021;*
>
> *(c) Section 3(1) of the Taxation and other Laws*

(Relaxation and Amendment of Certain Provisions) Act, 2020 overrides section 149 of the Income-tax Act only to the extent of relaxing the time limit for issuance of a reassessment notice under section 148;

(d) Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 will extend the time limit for the grant of sanction by the authority specified under section 151. The test to determine whether Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 will apply to section 151 of the new regime is this : ***if the time limit of three years from the end of an assessment year falls between March 20, 2020 and March 31, 2021, then the specified authority under section 151(i) has extended time till June 30, 2021 to grant approval****;*

(e) In the case of section 151 of the old regime, the test is : if the time limit of four years from the end of an assessment year falls between March 20, 2020 and March 31, 2021, then the specified authority under section 151(2) has extended time till March 31, 2021 to grant approval;

(f) The directions in Union of India v. Ashish Agarwal [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.] will extend to all the ninety thousand reassessment notices issued under the old regime during the period April 1, 2021 and June 30, 2021;

(g) The time during which the show-cause notices were deemed to be stayed is from the date of issuance of the deemed notice between April 1, 2021 and June 30, 2021 till the supply of relevant information and material by the

Assessing Officers to the assessees in terms of the directions issued by this court in Union of India v. Ashish Agarwal [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.] , and the period of two weeks allowed to the assessees to respond to the show-cause notices; and

(h) The Assessing Officers were required to issue the reassessment notice under section 148 of the new regime within the time limit surviving under the Income-tax Act read with the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020. All notices issued beyond the surviving period are time barred and liable to be set aside;

8. That apart, the learned counsel for the respondent would submit that the petitioner has now brought these additional facts, which are not pleaded in the affidavit filed in support of this writ petition and they are subsequent to the filing of the writ petition and hence, submits that the writ petition is liable to be dismissed.

9. Having considered the submissions made by the learned counsel for the petitioner and the learned counsel for the respondents, this writ petition deserves to be disposed of by directing the respondents to pass fresh orders in the light of

the case having been settled by the petitioner under the Direct Tax Vivad Se Vishwas Scheme, 2024 particularly in the light of the clarification in S.No.22 to the above instruction F.No.370142/22/2024-TPL, which is a guidance note No.1/2024 regarding the provisions of the Direct Tax Vivad Se Vishwas Scheme, 2024 same is reproduced hereunder:

22	Where assessee settles TDS liability as deductor of TDS under DTVSV Scheme, 2024 (i.e. against order u/s 201), when will he get consequential relief of expenditure allowance under proviso to section 40(a)(i)/(ia) of the Act?	In such cases, the deductor shall be entitled to get consequential relief of allowable expenditure under proviso to section 40(a)(i)/(ia) of the Act in the year in which the tax was required to be deducted, if the disallowance under section 40(a)(i)/(ia) of the Act is with respect to same issue on which order under section 201 has been issued. However, if the assessee has already claimed deduction of the same amount under section 40(a)(i)/(ia) of the Act in subsequent year on account of recovery of TDS in such subsequent year, he shall not be entitled to consequential relief under section 40(a)(i)/(ia) of the Act on the basis of the settlement under DTVSV Scheme, 2024. In case, in the order under section 143(3) there are other issues as well, and the appellant wants to settle the dispute with respect to order under section 143(3)of the Act as well, then the disallowance under section 40(a)(i)/(ia) of the Act relating to the issue on which he has already settled liability under section 201 of the Act would be ignored for calculating disputed tax.

10. In case the respondents want to proceed against the Petitioner despite the above clarification, they may give a notice to the petitioner to raise all

grounds that are available in the light of the decision of the Hon'ble Supreme Court in **Union of India vs. Rajeev Bansal., 2024 SCC Online SC 2693.**

11. This Writ Petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

04-11-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

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WP No. 23508 of 2022

To

1.The Central board of Direct Taxes
represented by its Chairperson,
Department of Revenue - Ministry of
Finance Government of india, New
Delhi.

2.The Deputy Commissioner of
Income Tax,
Corporate Circle -3(1), Chennai, No.
121 Mahatma Gandhi Road,
Nungambakkam, Chennai - 600034.

3.The Principal Chief Commissioner of
Income Tax,
No. 121 Mahatma Gandhi Road,
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C.SARAVANAN J.

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