IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-06-2026

CORAM

THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY

WP No. 13130 of 2023
&
WMP Nos.12892 & 12893 of 2023

Global Publishing solutions Limited
(PAN.AAJCG9194M) 6th Floor,
No.9, Appold Street, London UK
Rep. by its Authorized Signatory Mr.S.Senthil Kumar.

..Petitioner(s)

Vs

Deputy commissioner of Income Tax
International Taxation 1 (2) Room No.408, BSNL Building, 4th Floor, Income Tax office- BSNL Tower, No.16, Greams Road,
Chennai- Pin- 600 006.

..Respondent(s)

PRAYER: This writ petition is filed under Article 226 of the Constitution of India praying for issuance of writ of Certiorari to call for the records in DIN and Order No.ITBA /AST /F/ 144C/ 2022- 23 / 1051663950 (1) dated 30.03.2023 and the corrigendum to the impugned order in DIN and Letter No.ITBA /AST /F/ 17 / 2022 - 23 / 1051781806 (1) dated 31.03.2023 on the file of the Respondent relating to the AY 2018- 19 and quash the same.

For Petitioner(s): Mr. G.Shiva Kumar

For Respondent(s): Mr. B. Ramana Kumar, SPC

ORDER

The petitioner is a subsidiary of a company, Newgen Digitalworks Private Limited (Newgen Digitalworks), registered and resident in India for purposes of the Income-Tax Act, 1961 (the I-T Act). In relation to services provided by the petitioner to the said company, payments were made to the petitioner. Tax was not deducted thereon under Section 195 of the I-T Act. Such non-deduction gave rise to proceedings against the Indian entity. Such proceedings are pending before the appellate authority. Meanwhile, proceedings were initiated against the petitioner by issuing notice under Section 148A. Eventually, notice under Section 148 was issued. Upon receipt thereof, the petitioner filed the return of income for the assessment year 2018-19. Initially, without taking notice of such return of income, a draft assessment order was issued on 30.03.2023 on best judgment basis. Subsequently, a corrigendum was issued on 31.03.2023 after taking note of the return of income. Apart from taking note of the return of income, the conclusion in the corrigendum remained the same. The present writ petition was instituted in the above facts and circumstances.

2. Learned counsel for the petitioner assails the orders impugned herein on two substantial grounds. The first ground of challenge is that proceedings were initiated against Newgen Digitalworks, which is an Indian entity. Depending on the outcome of such proceedings, the entire tax liability of the

petitioner would be discharged by the Indian entity. Therefore, the proceedings against the petitioner would result in double taxation. Without prejudice, the second contention is that the show cause notice preceding the draft assessment order was issued under Section 144 of the I-T Act, which is applicable in cases where the return of income is not filed. Given that a return of income was filed by the petitioner and such return of income was not taken into consideration, learned counsel contends that the only legitimate course of action for the Income-tax Department was to initiate proceedings under Section 143 after issuing notice under subsection (2) thereof. Thereafter, the corrigendum is liable to be set aside.

3. In response, Mr.Ramana Kumar, learned SPC, submits that the proceedings against the holding company are confined to the failure to deduct tax at source in terms of Section 195 of the I-T Act. Irrespective of whether deduction is made or not, he submits that the petitioner should have filed a return of income so as to enable assessment. He also submits that the rate of tax applicable to the transaction would depend on the application and interpretation of the Double Taxation Avoidance Agreement (DTAA) between India and the UK. Consequently, he contends that it is not a case of double taxation and that any payment. made by the holding entity in India would be given credit to while determining the tax liability of the petitioner.

4. On examining the draft assessment order, it is clear that the assessing officer recorded that no return of income was filed by the assessee till date. This conclusion is contrary to the materials on record. Pursuant to notice dated 27.03.2023 under Section 142(1) of the I-T Act calling upon the petitioner to file the return of income for the assessment year 2018-19, the petitioner filed the said return on 28.03.2023. Therefore, the assessment should not have been carried out on the basis that no return was filed. Upon noticing this error, a corrigendum was issued on the very next day merely taking note of the return of income and retaining all other conclusions. These facts and circumstances warrant reconsideration of the petitioner's assessment.

5. Under Section 153(2) of the I-T Act, an order of assessment or re-assessment is required to be made within 12 months from the end of the financial year in which the notice under Section 148 was served. The notice under Section 148 is dated 02.05.2022 and the relevant financial year ended on 31.03.2023. If a 12 month period were to be computed therefrom, it would expire on 31.03.2024. The petitioner lodged the writ petition on or about 20.04.2023 and also obtained interim protection. Therefore, the time taken in prosecuting this writ petition is liable to be excluded while computing the period of limitation under Section 153(2).

6. For reasons set out above, this writ petition is disposed of as follows:

i. The impugned draft assessment order and the corrigendum thereto are set aside.

ii. It is open to the Income-tax Department to initiate proceedings against the petitioner after issuing notice under Section 143(2) and after taking note of the observations set out in this order. Consequently, connected miscellaneous petitions are closed. No costs.

09-06-2026

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

KAL

To

Deputy commissioner of Income Tax
International Taxation 1 (2) Room No.408, BSNL Building, 4th Floor, Income Tax office- BSNL Tower, No.16, Greams Road,
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SENTHILKUMAR RAMAMOORTHY, J.

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