IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.12.2017

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.33560 of 2017
and WM.P.No.37082 of 2017

Mr.Dhiraj Bhansali
Partner
M/s.Sha Rikhabdas Madaji & Co.
No.41, Perumal Mudali Street
Sowcarpet, Chennai 600 079. ... Petitioner

Vs.

Income-Tax Officer
Non-Corporate Ward 6(3)
Chennai 600 006 ... Respondent

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the respondent pertaining to the assignment order dated 29.11.2017, assessed under Section 143(3) Income Tax 1961 and the consequential demand notice dated 29.11.2017, issued under Section 274 read with Section 271 of the Income Tax Act 1961 all pertaining to the petitioner herein and to quash the same.

For Petitioner : Mr.GK.Muthukumaar

For Respondent : M/s.Hema Muralikrishnan
Senior Standing Counsel

O R D E R

Heard Mr.GK.Muthukumaar, learned counsel for the petitioner and M/s.Hema Muralikrishnan, learned Senior Standing Counsel for the respondent. With the consent on either side, the writ petition is taken up for disposal.

2.The petitioner is before this Court challenging the re-opening proceedings under Section 147 of the Income Tax Act, 1961 (hereinafter referred to as "the Act"). The sum and substance of the challenge to the impugned re-open proceedings is on the ground that the materials which were available with the Assessing Officer while completing the scrutiny assessment under Section 143(3) of the Act is the sole basis for re-opening and for such reason, re-open cannot be made as it would amount to change of opinion.

3.From the papers filed in the typed set of papers, I find that the petitioner has not sought for the reasons for re-opening of the assessment. If the petitioner had sought for the reasons, it would have been furnished by the Assessing Officer after which the petitioner can file his objections and a speaking order will have to be passed by the respondent on the objections as per the decision of the Hon'ble Supreme Court in the case of GKN Drive Shafts (India) Limited vs. Income Tax Officer reported in 2002 Supp (4) SCR 359.

4.Thus, considering the above mentioned facts, there will be a direction to the petitioner to file a representation along with a copy of this order to the respondent and submit the same to the respondent requesting for furnishing reasons for re-opening and on receiving the reasons for re-opening, the petitioner is granted fifteen days time to submit his objections and the respondent on receipt of the objections shall pass a speaking order and communicate the same to the petitioner within a period of two weeks. Till such proceedings are finalized, no coercive action shall be initiated against the petitioner subject to the condition that the petitioner gives the representation as directed by this Court within the time stipulated.

5.Accordingly, the writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

dna/cse
To
The Income-Tax Officer
Non-Corporate Ward 6(3)
Chennai 600 006

+1cc to M/S.MGS LAW ASSO. Advocate, S.R.No. 91762
+1cc to M/S.Hema Muralikrishnan Advocate, S.R.No. 91881
+1cc to M/s.GMS Law Associates, Advocate sr.5292(25/01/2018)

W.P.No.33560 of 2017

TR(17/01/2018)