IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2019

CORAM

THE HON'BLE Dr. JUSTICE ANITA SUMANTH

W.P.No.3351 of 2019
& W.M.P.Nos.3634 & 3635 of 2019

M/s. PACTRO INC.
represented by its partner Mr.G.Nagaraj,
Karai Village, Siruvakkam Post,
Walajabad Block (Near Paranthur Road)
Kanchipuram-631552 ....Petitioner

--Vs--

The Income Tax Officer,
Ward 2 Kancheepuram,
No.96, Munuswamy Mudaliar Avenue,
Kancheepuram-631501 ...Respondent

PRAYER in WPs: Writ Petitions filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for records of the respondent herein in his proceedings issued under Section 143(3) of the Income Tax Act, 1961 in PAN:AARFP4480A dated 26.12.2018 and quash the same and direct the respondent to consider the petitioner's records for the capital brought in the firm.

For Petitioner : Mr.P.V.Ravi Kumar

For Respondents : Mr.J.Narayanasamy
Senior Standing Counsel

O R D E R

The petitioner in this writ petition challenges proceedings dated 26.12.2018 passed under Section 143(3) of the Income Tax Act, 1961 (in short the 'Act'), quash of the same and a direction to the respondents to consider the records in their possession in relation to the capital brought into the firm while passing an order of assessment under the provisions of the Income Tax Act, 1961 (in short the 'Act').

2. Mr.P.V.Ravi Kumar, learned counsel for the petitioner states that the petitioner has been regularly appearing before the respondent to assist in the finalisation of proceedings for assessment in relation to assessment year 2016-17.

3. While this is so, the assessment has been finalised without reference to various details produced by the petitioner in support of its stand vide impugned order of assessment dated 26.12.2018 The specific averment is that the petitioner filed additional supporting particulars on 27.12.2018 that the respondent did not receive stating that the assessment had already been finalised. Hence this writ petition.

4. It is seen that a notice under Section 143(2) of the Act was issued by the respondent on 09.08.2018 and the petitioner sought time vide its letter dated 11.09.2018 till 10.10.2018. Accordingly, a memo dated 14.09.2018 was issued by the Income Tax Officer, Ward 1, Kancheepuram, intimating the petitioner that the assessment had been transferred to the jurisdiction of the present respondent. The respondent then proceeded to issue a notice under Section 143(2) calling upon the petitioner to appear before him on 12.12.2018 for finalisation of the assessment. Thus, the assessment has itself been taken up for hearing effectively only on 05.10.2018 by the present respondent.

5. On 12.12.2018, the assessee submitted some of the details for consideration of the Assessing Officer before his assistant. On 25.12.2018, the petitioner filed some more particulars before the respondent. Those particulars have been placed at pages 1 to 9 and 11 to 15 of the additional set of papers dated 31.01.2019.

6. Records of assessment were produced by Mr.Narayanasamy, learned Senior Standing Counsel for the respondent and with the assistance of the respondent / Assessing Officer, who is present in Court, he confirms that the documents at pages 1 to 9
& 11 to 15 of document set dated 31.01.2019 have been received in the respondents' office.

7. The impugned order of assessment has been passed on 26.12.2018, admittedly, without reference to the aforesaid documents. Mr.Ravi Kumar also states that on 27.12.2018 documents at pages 6-10 of type set dated 31.01.2019, being the details of capital account of various individuals, have also been produced before the Assessing Officer. The records produced contain do not contain the aforesaid documents.

8. Be that as it may, as the impugned order of assessment contains reference to a query raised regarding capital invested by the partners, the aforesaid documents may also be produced before the Assessing Officer for his consideration.

9. The impugned assessment order is, in the light of the discussion above set aside. The assessee will appear before the respondent/Assessing Officer on 22.03.2019 at the first instance and the assessment shall be re-done after taking into consideration the documents at pages 1 to 15 of the type set dated 31.01.2019, a copy of which is available with the learned Senior Standing Counsel for the respondent or any other

documents that the Assessing Officer may specifically call for from the assessee. The assessment shall be completed within a period of six(6) weeks from the date of the receipt of a copy of this order. This writ petition stands disposed of in the above terms. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Income Tax Officer,
Ward 2 Kancheepuram,
No.96, Munuswamy Mudaliar Avenue,
Kancheepuram-631501

+1cc to Mr.P.V.Ravi Kumar, Advocate sr.no.22799

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nr 18/03/2019