IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.34483 of 2019
and WMP.No.35186 of 2019

KAG India Pvt. Ltd.
264/ 15 Sathiyanathan Complex, Velachery Road
Tambaram East Chennai - 600059. .. Petitioner

Vs.

Assistant Commissioner of Income Tax
Corporate Circle - 4(2) Room No. 433
4th Floor Main Building Ayakar Bhavan
121 MG Road Nungambakkam
Chennai - 600034. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying Writ of Certiorarified Mandamus to call for the entire records of the Respondent contained in the impugned order dated 19.11.2019 passed by the Respondent under Section 143(3) r/ w Section 147 of the Income Tax Act 1961 for PAN. AADCK5381Q for AY 2014-15 along with all consequential orders issued thereto and to quash the same, as arbitrary unjust and illegal, and to consequently direct the Respondent to provide the Petitioner with an opportunity of hearing before taking any further steps to re-assess the income of the Petitioner for PAN. AADCK5381Q for AY 2014-15.

For Petitioner : Mr. Suhrith Parthasarathy

For Respondent : Mrs.Hema Muralikrishnan
Senior Standing Counsel

O R D E R

Heard Mr.Suhrith Parthasarathy, learned counsel for the petitioner and Mrs.Hema Muralikrishnan, learned Senior Standing Counsel for the respondent.

2. The challenge is to an order of assessment dated 19.11.2019 passed under the provisions of the Income Tax Act, 1961 (in short 'Act') for the assessment year 2014-15.

3. Though the petitioner has raised various grounds in the writ petition, the preliminary ground agitated and pursued

before me is the violation of principles of natural justice on the basis that the impugned order of assessment is preceded by a show cause noticed dated 06.11.2019, listing the matter for finalization on 11.11.2019 at 11:00 a.m. According to the petitioner, while all prior notices and communications have been received by e-mail, this show cause notice was only uploaded on the website and thus had not come to its attention. On the ground that the petitioner did not appear for the hearing on 11.011.2019, as scheduled, the Assessing Officer has proceeded to pass the impugned order.

4. There is no serious dispute to the position that the show cause notice dated 06.11.2019 has only been uploaded and not served by e-mail.

5. In the light of the aforesaid, I am of the view that the petitioner has not been granted an effective opportunity to state its case before the Assessing Officer. It is relevant to note that it is only at the stage of show cause notice that the issue to be decided in assessment is crystallised and communicated to the assessee and it is thus incumbent upon the Officer to have ensured that such notice was properly served and sufficient time granted to the assesse to respond prior to finalisation of assessment.

6. In the light of the discussion as aforesaid, the impugned order of assessment dated 19.11.2019 is set aside. The petitioner will appear before the Assessing Officer on Friday, the 18th of September, 2020, without expecting any further notice in this regard, armed with a reply to the show cause notice. After considering the reply and any other materials that may be furnished by the petitioner, the assessment shall be completed within a period of six (6) weeks thereafter.

7. This writ petition is disposed in the aforesaid terms. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

Sl

To

Assistant Commissioner of Income Tax
Corporate Circle - 4(2) Room No. 433
4th Floor Main Building Ayakar Bhavan
121 MG Road Nungambakkam
Chennai – 600034.

+1cc to Mr.Arun Karthik Mohan, Advocate SR.28956

W.P. No.34483 of 2019
and WMP.No.35186 of 2019

CA(CO)

CB(02/11/2020)