IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2020

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition No.35542 of 2019
WMP.No.36396 & 36392 of 2019

R.Srinivasan ...Petitioner

--Vs--

1.The Income Tax Officer
Non-Corporate Ward 3(2)
63, Race Course Road,
Coimbatore- 641 018

2.The Income tax Officer Investigation,
63, Race Course Road,
Coimbatore- 641 018 ...Respondents

PRAYER: PETITION filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for the records of the 1st respondent in PAN No.CUBPS7326E pursuant to the impugned notice dated 27.03.2019 under Section 148 in Notice No.ITBA/AST/S/148/2018-19/1015445050(1) culminating in issuing Impugned show cause notice dated 09.12.2019 in Notice No.ITBA/AST/F/147(SCN)/2019-20/1021966926 (1) culminating the issue of reasons for reopening under Section 147 dated 16.12.2019 in Impugned Notice No.ITBA/AST/F/17/2019-20/1022468997(1) and quash the proceedings issued by the 1st respondent.

For Petitioner : Mr.Raveendran B.

For Respondent : Mr.A.P.Srinivas
Senior Standing Counsel

O R D E R

The petitioner has challenged notice under Section 148 of the Income Tax Act, 1961 ('Act') dated 27.03.2019 and show cause notice dated 09.12.2019, as well as reasons for re-assessment dated 16.12.2019.

2. This writ petition can be disposed setting forth the procedure for re-assessment as stated by the Supreme Court in the case of GKN Driveshafts (India) Ltd. vs. Income Tax Officer and Others (259 ITR 19) as follows:

4. We see no justifiable reason to interfere with the order under challenge. However, we clarify that when a notice under Section 148 of the Income tax Act is issued, the proper course of action for the noticee is to file return and if he so desires, to seek reasons for issuing notices. The assessing officer is bound to furnish reasons within a reasonable time. On receipt of reasons, the noticee is entitled to file objections to issuance of notice and the assessing officer is bound to dispose of the same by passing a speaking order. In the instant case, as the reasons have been disclosed in these proceedings, the assessing officer has to dispose of the objections, if filed, by passing a speaking Order before proceeding with the assessment in respect of the abovesaid five assessment years.

3. The petitioner has filed a return of income for the first time on 27.06.2019 in respect of assessment year 2012-13 after receipt of notice under Section 148. Immediately on receipt of the notice under Section 148, objections appeared to have been filed without seeking reasons. Reasons for re-assessment have been sought only on 16.12.2019 and furnished on the same date. Thus, in line with the procedure set out by the Supreme Court, the petitioner is permitted to file his objections to the assumption of jurisdiction within a period of two weeks from today. A separate order on the objection will be passed by the respondent and duly communicated to the petitioner and thereafter, the matter taken up on merits, if at all. After hearing the petitioner, an order of re-assessment shall be passed by the respondent in accordance with law.

4. This writ petition is disposed in the aforesaid terms. Connected, miscellaneous petitions are closed with no order as to costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Income Tax Officer
Non-Corporate Ward 3(2)
63, Race Course Road,
Coimbatore- 641 018

2.The Income tax Officer Investigation,
63, Race Course Road,
Coimbatore- 641 018

+1cc to Mr.B.Raveen Kumar, Advocate, S.R.No. 7950

+1cc to Mr.A.P.Srinivas, Advocate, S.R.No. 8729

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SSD(CO)
GN(05/03/2020)