IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.369 of 2019
and
W.M.P.No.375 of 2019

(Through Video Conferencing)

M/s.Gugnani Leasing and Hire
Purchase Private Limited,
Represented by its Director
Mr.Joseph Philip,
6/13, North Avenue,
Kesavaperumalpuram,
Chennai - 600 028. ...Petitioner

Vs.

Deputy Commissioner of Income Tax,
Central Circle 2(3), Chennai
No.121, Mahatma Gandhi Road,
Nungambakkam,
Chennai - 600 034. ...Respondents

Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the file of the respondent in PAN.AAACG5972C in passing the impugned order under Section 144 r/w Section 148 of the Income Tax Act, 1961 dated 21.12.2018 for the Assessment Year 2011-2012 and quash the same as illegal, arbitrary and without jurisdiction.

For Petitioner : Mr.Raghav Rajeev Menon

For Respondent : Mr.A.N.R.Jayaprathap,
Jr. Standing Counsel

O R D E R

Heard the learned counsel for the petitioner and the Jr. Standing Counsel for the respondent.

2. The petitioner has challenged the impugned Assessment Order dated 21.12.2018 for the Assessment Year 2011-2012.

3. Earlier, the petitioner was issued with a notice dated 30.03.2018 under Section 148 of the Income Tax Act, 1961. The aforesaid notice culminated in a speaking order dated 11.12.2018 bearing reference F.No.DCIT/CC-2(3)/AAAACG5972C/2018-19. The aforesaid speaking order order passed by the respondent was challenged by the petitioner in W.P.No.33956 of 2018. The petitioner has also secured an interim order dated 21.12.2018. However, during the pendency of the interim order dated 21.12.2018 in W.P.No.33956 of 2018, the impugned order has been passed.

4. The learned counsel for the petitioner submits that since the impugned order dated 21.12.2018 has been passed under Section 144 read with Section 148 of the Income Tax Act, 1961, the Writ Petition filed earlier in W.P.No.33956 of 2018 was dismissed on 20.04.2021 with liberty to the petitioner to workout remedy.

6. As the impugned order has been now passed on merits, this Court is of the view that it would be appropriate for the petitioner to work out the remedy before the concerned Appellate Authority by filing appeal within a period of thirty (30) days from the date of receipt of a copy of this order.

7. If such appeal is filed within aforesaid period, the Appellate Authority shall endeavour to consider the petitioner's appeal including the objection of the petitioner as to the jurisdiction to re-open of the Assessment under Section 148 of the Income Tax Act, 1961.

8. Considering the fact that after April, 2021, the appellate proceedings before the Appellate Authority is faceless and electronically and that the petitioner will be unable to file the appeal at this time in the web portal, the respondent is directed to instruct the administrator of the Income Tax Web Portal to make suitable arrangements for facilitating the petitioner to file appeal within the aforesaid period.

9. This Writ Petition therefore stands disposed. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

jen

To

The Deputy Commissioner of Income Tax,
Central Circle 2(3), Chennai
No.121, Mahatma Gandhi Road,
Nungambakkam,
Chennai – 600 034.

W.P.No.369 of 2019 and
W.M.P.No.375 of 2019

KSM[co]
NSK 09/12/2021