IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.458 of 2020
and WMP No.517 of 2020

M/s.Globe Fresh
Rep by A.Arul Rajan D 55 Periyar Vegetable
Market Koyambedu Chennai 92. .. Petitioner

Vs.

The Deputy Commissioner of Income Tax
Non Corporate Circle 8 (1)
Room No.507 Annexe Building V Floor
Aayakar Bhawan Annexe Building
No.121 Mahatma Gandhi Road
Nungambakkam
Chennai – 600 034. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus to call for the records on the files of the respondent herein in Order No. ITBA/ AST/ S/ 144/ 2019-20/ 1021546966 (1) dated 3.12.2019 for Assessment Year 2017-18 and quash the same and consequently direct the respondent to hear the Assessment Proceedings afresh by giving opportunity to the petitioner.

For Petitioner : Mr.J.Kingsly Solomon

For Respondent : Mrs.Hema Muralikrishnan
Senior Standing Counsel

O R D E R

Heard Mr.J.Kingsly Solomon, learned counsel for the petitioner and Mrs.Hema Muralikirishnan, learned Senior Standing Counsel for the respondent.

2. Both learned counsel agree that the effective point to be argued in this writ petition is violation of principles of natural justice, if any. The petitioner states that show cause notice dated 26.11.2019 has not been received by it and the assessment has come to be completed to the best of the officers' judgment, by order dated 03.12.2019.

3. The Revenue has however filed an additional typed set dated 14.02.2021 attempting to establish that the show cause notice was, in fact, sent to the petitioner's registered e-mail ID and hence there has been no violation, as alleged. To this, the petitioner has filed an additional typed set dated 22.02.2021 with copies of screen shots of the inbox of the registered e-mail ID (globefresh55@gmail.com) in an attempt to establish that no such notice was issued.

4. This being a disputed question of fact, I am not inclined to go into the receipt or otherwise of the show cause notice. Suffice it to say that the petitioner should be given a full opportunity of hearing prior to framing of assessment and thus in the interests of substantial justice, I am inclined to set aside the impugned order of assessment and afford one more opportunity of hearing to the petitioner, and I do so. Since this is a faceless assessment, no date of hearing is fixed. There is however, a direction to the respondent to complete the assessment within a period of twelve (12) weeks from today.

5. The writ petition is disposed in the aforesaid terms. Connected Miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sl

To
The Deputy Commissioner of Income Tax
Non Corporate Circle 8 (1)
Room No.507 Annexe Building V Floor
Aayakar Bhawan Annexe Building
No.121 Mahatma Gandhi Road
Nungambakkam
Chennai - 600 034.

+1cc to Mr.J.Kingsly Solomon, Advocate Sr.NO.20257
+1cc to M/s.Hema Muralikrishnan, Advocate Sr.No.20264

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PL(CO)
NR 21/04/2021