IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.1178 of 2020
and
W.M.P.Nos.1444 and 1446 of 2020

Gowthaman Parameswari …Petitioner

Vs.

The Assistant Commissioner of Income Tax,
Income Tax Circle 2(1), Trichy,
3rd Floor, Trichy Main Building,
Williams Road, Cantonment,
Tiruchirapalli - 620 001. ...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, to call for the records of the respondent in PAN BCGPP4045P vide order No.ITBA/AST/S/143-3/2019-20/1022905510 (1) dated 23.12.2019 and raised a demand under Sec.156 of the Income Tax Act in No.ITBA/AST/S/156/2019-20/1022905669(1) dated 23.12.2019 and quash the same as ex-facie illegal, arbitrary, without jurisdiction and against the principles of natural justice.

For Petitioners : Mr.K.Soundararajan
For Respondent : Mrs.Hema Muralikrishnan
Senior Standing Counsel

ORDER

Heard Mr.K.Soundararajan, learned counsel for the petitioner and Mrs.Hema Muralikrishnan, learned Senior Standing Counsel for the revenue.

2. When the matter came up for admission on 22.01.2020, I have recorded the following sequence of dates and events:

> Mrs.Hema Muralikrishnan, learned Senior Standing Counsel accepts notice for the respondent and seeks some time to obtain instructions and file a counter.
>
> 2. The petitioner appears to have received a questionnaires of enquiry dated 06.12.2019 and has responded to the same by communication dated 10.12.2019 stated to be uploaded on 12.12.2019 seeking some time to file a reply on or before 26.12.2019.

> 3. This reply is referred to in the impugned order of assessment. However, since the matter was time barring, the Assessing Authority has proceeded to finalise the assessment even on 23.12.2019.
>
> 4. Prima facie, there is violation of principles of natural justice.
>
> 5. List on 19.02.2020. Counter be filed by then with an advance copy served on the petitioner.
>
> 6. Interim stay till then.

3. Though a counter has been filed, the above dates and events are not in dispute and admittedly, the impugned order in terms of the provisions of the Income Tax Act, 1961 has been passed on 23.12.2019 in spite of the petitioner requesting time to file a reply till 26.12.2019. There is thus no effective hearing on the merits of the matter.

4. For this admitted reason, the impugned order dated 23.12.2019 is set aside. An order of assessment de novo shall be passed after hearing the petitioner and in accordance with law within a period of eight (8) weeks from date of uploading of this order.

5. The Writ Petition is allowed in the aforesaid terms. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To
The Assistant Commissioner of Income Tax,
Income Tax Circle 2(1), Trichy,
3rd Floor, Trichy Main Building,
Williams Road, Cantonment,
Tiruchirapalli - 620 001.

+1cc to Mr.K.Soundararajan, Advocate, S.R.No. 4970
+1cc to Mr.Hema Muralikrishnan, Advocate, S.R.No. 4587

W.P. No.1178 of 2020
and
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SVI(CO)
GN(02/02/2021)