IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.10656 of 2021
& WMP Nos.11264 and 11265 of 2021

Kumaran Silks Traders
rep. By its Partner,
P.J.Ethiraj …Petitioner

Vs.

1. The Income Tax Officer,
National e-Assessment Centre,
Income Tax Department,
Ministry of Finance, Room No.401,
2nd Floor, E-Ramp,
Jawaharlal Nehru Stadium,
Delhi – 110 003.

2. The Income Tax Officer,
Non-Corporate Ward – 1(2),
Wanaparthy Block, 3rd Floor,
Aayakar Bhavan, No.121, M.G.Road,
Nungambakkam, Chennai – 600 034. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari calling for the records in DIN:ITBA/AST/S/143(3)/2021-22/1032425149(1) dated 15.04.2021 on the file of the 1st respondent relating to A.Y.2018-19 and quash the same.

For Petitioner : Mr.R.Sandeep Bagmar

For Respondents : Mrs.Hema Muralikrishnan
Senior Standing Counsel

O R D E R

Mrs.Hema Muralikrishnan, learned Senior Standing Counsel accepts notice for the respondents and is armed with instructions to proceed finally, even at the stage of admission. Hence, by consent of both sides, this Writ Petition is disposed finally, even at this stage.

2. The impugned order of assessment passed under Section 143(3) read with Sections 143(3A) and 143(3B) of the Income Tax Act, 1961 (in short 'Act') is dated 15.04.2021 and is assailed primarily on the ground of violation of the principles of natural justice.

3. Prior to passing of the impugned order, the faceless assessment scheme requires that a show cause notice be issued to the concerned assessee accompanied by a draft assessment order setting out the additions proposed to be made. The assessee in question is given an opportunity to either accept the proposed modifications or to object to the same or to request a personal hearing in order to put forth its submissions to present its case, after filing of the written reply.

4. No doubt, in this case, such show cause notice along with a draft assessment order has been issued on 12.04.2021. However, the time extended to the assessee to avail of the options under the draft assessment order is insufficient, insofar as the petitioner has been called upon to avail one of the options set forth, by 14.04.2021. The show cause notice and the accompanying draft assessment order have been received by the petitioner by e-mail on 13.04.2021. Thus 24 hours is available to the petitioner to comply with the same.

5. In the light of the apparent violation of the principles of natural justice, the impugned order is set aside. The petitioner will comply with the directions in notice dated 12.04.2021 and intimate the Assessing Officer accordingly within a period of three (3) weeks from today. The respondents will facilitate receipt of such reply by the petitioner by enabling the portal to receive the objections. Upon receipt of objections, the Assessing Authority will hear the petitioner and take forward the assessment and complete the same in accordance with law.

6. This Writ Petition is disposed in the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

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To

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Aayakar Bhavan, No.121, M.G.Road,
Nungambakkam, Chennai - 600 034.

+1cc to Mr.R.Sandeep Bagmar, Advocate SR.No.25797

+1cc to Mrs.Hema Muralikrishnan, Advocate SR.No.26155

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AJB(CO)

GMY(08/07/2021)