IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.12005 of 2021
and
W.M.P.Nos.12762 & 12763 of 2021
(Through Video Conferencing)

M/s.Bradken India Private Limited,
No.191/3 and 191/4, Orthukuppai Village,
Chettipalayam,
Coimbatore 641 2001. ...Petitioner

vs

The Income Tax Officer,
National e-Assessment Centre,
Delhi. ...Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the respondent pertaining to the order styled as "Assessment Order" in ITBA/AST/S/143(3)/2021-22/1032535735(1) dated 20.04.2021 and quash the same.

For Petitioner : Mr.Srinath Sridevan

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

ORDER

The petitioner has challenged the impugned final Assessment order dated 20.04.2021 passed by the respondent on the ground that the impugned order has been passed without passing a draft Assessment Order.

2. The learned Senior Standing Counsel for the respondent has filed a counter affidavit. Para Nos.4 and 5 of the counter affidavit, reads as under:-

> I submit that, since the assessment in this case is to be completed by NeAC, the above mentioned TPO order was uploaded in ITBA. Subsequently, scrutiny assessment was completed by NeAC and final order passed u/s.143(3) r/w Section 144 B of the Act on 20.04.2021. However, before passing final order, NeAC failed to pass a draft

assessment order as provided under Section 144(C) of the Act.

5. I submit that as per the letter dated 29.05.2021 of the ACIT, ReAC, AU, Kottayam (copy attached herewith for ready reference), addressed to the Sr.Standing Counsel, High Court of Judicature at Madras, Chennai, it was stated that draft order u/s.144 C was prepared and after vetting done by the Review Unit as Draft order under Section 144C, the same was uploaded in ITBA. However, while uploading, due to the inadvertent error, the order was processed as final assessment order along with Demand Notice and penalty notice, instead of Draft Order u/s.144C of the Income Tax Act, 1861. It was further stated in the letter that, even though efforts were taken to issue corrigendum, the same could not be issued as the case was not available in the list.

3. In view of the above, the impugned order passed by the respondent dated 20.04.2021 is hereby quashed.

4. The respondent is therefore directed to pass a fresh Draft Assessment Order within a period of thirty days from the date of receipt of a copy of this order.

5. This writ petition stands allowed with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

kkd

To
The Income Tax Officer,
National e-Assessment Centre,Delhi.

+1cc to Mr.Srinath Sridevan, Advocate, S.R.No.59560

+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.59708

W.P.No.12005 of 2021

GPL(CO)
RGA(10/12/2021)