IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.20007 of 2021
and
W.M.P.Nos.21272 & 21273 of 2021

(Through Video Conferencing)

M/s.Sapthrishi Buildicon LLP
Represented by its Partner,
Mrs.Vandana Aggarwal,
4, 5th Street, Thirumurthy Nagar,
Nungambakkam, Chennai - 600 034.
Tamil Nadu. ... Petitioner

Vs

The Income Tax Officer,
National Faceless Assessment Centre,
New Delhi. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records on the file of the respondent in DIN ITBA/AST/S/143(3)/2021-22/1035158039(1) dated 27.08.2021 and quash the same.

For Petitioner : Mr.Srinath Sridevan

For Respondent : Mr.Prabhu Mukunth Arun Kumar
Junior Standing Counsel for
Mrs.Hema Muralikrishnan
Senior Standing Counsel

ORDER

The petitioner has challenged the Impugned Assessment Order dated 27.08.2021 for the Assessment Year 2018-19. The petitioner had filed a regular return on 24.10.2018 under Section 139 of the Income Tax Act, 1961. Thereafter, a notice issued under Section 143(2) of the Income Tax Act on 22.09.2019 and thereafter a notice issued under Section 143(2) of the Income Tax On 04.10.2019. The petitioner also appears to have a complied with the requirements by furnishing required information called for. Meanwhile, the Income Tax Act, 1961 was amended and Section 144B was inserted to the Act as a result of which statutorily the faceless assessment came to be recognised.

2.The petitioner was issued with the first show cause notice dated 31.05.2021 and a second show cause notice dated 23.06.2021. The petitioner was called upon to reply to the show cause as to why the amounts should not be added. The notice specifically gave the option to the petitioner to click the option for a personal hearing. Though the petitioner wanted a personal hearing, the petitioner did not use the pressing option in the dash board for a personal hearing under the new regime with effect from 01.04.2021. The respondent has now passed the impugned order without giving the petitioner an opportunity of personal hearing on the system does not recognised such request in a letter.

3.Opposing the prayer, the learned counsel for the respondent submits that the petitioner had an opportunity to request for a personal hearing by pressing the click option in the show cause notice which was ignored by the petitioner while filing reply to the show cause notice. It is submitted that since the petitioner failed to exercise the option, the writ petition is liable to the dismissed.

4.Heard the learned counsel for the petitioner and the learned Senior Standing counsel for the respondents.

5.The learned counsel for the petitioner has relied on few other decision in support of the present writ petition. However it is not necessary to refer to the same.

6.The petitioner has replied the show cause notice. The petitioner has also requested for a personal hearing, in the letter and in the system. Considering the fact that the mistake has arisen on account of the new system which has introduced a new method namely faceless assessment under the Income Tax Act, 1961 and considering the fact that the impugned order has been passed without following the principles of natural justice and considering the fact that the system is new and the assessees who may not be fully aware of the new system, the impugned Assessment order is quashed and the case is remitted back to the respondent to pass a speaking order within a period of three months from the date of receipt of a copy of this order.

7.The impugned order which stands quashed by this Court shall be treated as a show cause notice issued to the petitioner. The petitioner shall filed appropriate written reply within a period of fifteen (15) days from the date of receipt of a copy of this order. The respondent shall thereafter pass a order within a period of seventy five (75) days thereafter. The respondent is directed to take appropriate instruction to the administrators of the portal to facilitate the fresh proceedings in terms of this order.

8.Accordingly, this writ petition stands allowed with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

rgm/jas

To

The Income Tax Officer,
National Faceless Assessment Centre,
New Delhi.

+1cc to Mr.Hema Muralikrishnan, Advocate SR.No.66388

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and
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SSD(CO)
GN(20/01/2022)