IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2021
CORAM:
THE HONOURABLE MR.JUSTICE C.SARAVANAN

WP.No.24171 of 2021
and
WMP.Nos.25497 & 25499 of 2021

[Video Conferencing]

Sakthi River Resorts India Private Limited
(Represented by its Managing Director Mr.C.M.Kamaraj)
144, Coimbatore Road
Pollachi 642 002
Tamil Nadu. ....Petitioner

-Vs.-

Additional / Joint / Deputy /
Assistant Commissioner of Income Tax / Income-Tax Officer
National Faceless Assessment Centre
Delhi. .....Respondent

Prayer :- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records pertaining to the impugned assessment order dated 20.09.2021 bearing DIN ITBA/AST/S/147/2021-22/1035720542(1), purportedly passed under Section 147 r/w Section 144B of the Income Tax Act, 1961 for the Assessment Year 2015-16 by the respondent and quash the same.

For Petitioner : Mr.T.V.Muthu Abirami
For Respondents : Mr.A.P.Srinivas,
Senior Standing Counsel

ORDER

Heard the learned counsel for the petitioner and the learned Senior Standing Counsel for the Income Tax Department.

2.This Writ Petition is disposed of without expressing any opinion on merits on the limited ground that the petitioner was unable to participate in the proceedings initiated pursuant to the notice issued under Section 142(1) of the Income Tax Act, 1961. By a notice dated 02.09.2021, issued under Section 142(1) of the Income Tax Act, 1961, the petitioner was called upon to furnish certain details by 09.09.2021. The petitioner has not responded to the same and has thus not explained the case. It is submitted that the aforesaid document pertain to the assessment year 2015-16 for the relevant financial year 2014-15 would have required some time to retrieve the same from their archives.

3.The learned counsel for the petitioner further submits that the impugned assessment order dated 20.09.2021 has been passed without issuing mandatory show cause notice and draft assessment order as is contemplated under Section 144B of the Income Tax Act, 1961 and therefore, prays for remanding the matter.

4.On the other hand, the learned Senior Standing Counsel appearing for the respondent would submit that the petitioner has failed to respond to the notice and therefore, the impugned order has been passed based on the available records.

5.Since the impugned order has been passed without issuing show cause notice and draft assessment order and considering the fact that the petitioner was not been able to furnish the document called for by a notice dated 02.09.2021 issued under Section 142(1) of the Income Tax Act, the impugned order is quashed and the case is remitted back to the respondent to pass a speaking order within a period of 60 days from the date of receipt of a copy of this order.

6.The impugned order which stands quashed shall be treated as show cause notice and draft assessment order for the purpose of completing the proceeding. The petitioner shall send its response to the same within a period of 30 days from the date of communication of this order.

7.The Writ Petition stands disposed of in the above terms. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

pgp

To

The Additional / Joint / Deputy /
Assistant Commissioner of Income Tax / Income-Tax Officer
National Faceless Assessment Centre
Delhi.

+1 CC to Mr.A.P.Srinivas, Advocate sr 63633
+1 CC to Mr.T.V.Muthu Abirami, advocate sr 63956

W.P.No.24171 of 2021

PMK(CO)
SP(27/12/2021)