IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.24256 of 2021
and
W.M.P.Nos.25572 & 25573 of 2021

(Through Video Conferencing)

VBR Hill Properties,
Represented by its Partner,
Mr.Danda Brahmanandam,
AH 123, 1st Floor,
4th Street, Shanthi Colony,
Chennai – 600 040,
Tamil Nadu, India. ... Petitioner

Vs

The Assistant Commissioner of Income Tax,
Central Circle 2(4),
Investigation Building,
No.46 (Old.No.108), Mahatma Gandhi Road,
Nungambakkam, Chennai – 34. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the file of the Respondent and quash the impugned order in ITBA/AST/S/153C/ 2021-2022/1036068095(1) dated 30.09.2021.

For Petitioner : Mr.R.Sivaraman

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

ORDER

Mr.A.P.Srinivas, the learned Senior Standing Counsel takes notice on behalf of the respondent.

2. This Writ Petition is disposed at the time of admission considering the fact that a notice under Section 153C of the Income Tax Act, 1961 dated 24.09.2021 was issued just six days prior to the expiry of limitation period prescribed for completing the assessment.

3. It is noticed that the notice under Section 153C of the Income Tax Act, 1961 was issued on 24.09.2021 giving the petitioner two days time to file their returns. Even before

the time prescribed for filing their returns expired, the respondent has also issued a Show Cause Notice dated 25.09.2021 to the petitioner.

4. That apart, it is noticed that the notice under Section 153C of the Income Tax Act, 1961 was received by the petitioner at 2.00 p.m in the afternoon on Friday and the last date for filing the returns would have been expired on 26.09.2021 as per the aforesaid notice on Sunday.

5. Since the Assessment Order has been passed without giving an adequate opportunity for the petitioner to either file returns and/or to reply, the order has to go.

6. Accordingly, the impugned Assessment Order dated 30.09.2021 and the consequential Demand Notice issued under Section 126 of the Income Tax Act are quashed and the case is remitted back to the respondent to pass appropriate orders within a period of thirty days from the date of receipt of a copy of this order in accordance with law.

7. The respondent is directed to ensure appropriate instructions to the Administrator of Web Portal to allow the petitioner to file the returns and also to a reply, if any.

8. This Writ Petition stands disposed of with the above observations. No costs. Consequently the connected Writ Miscellaneous Petitioners are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

rgm/arb
To

The Assistant Commissioner of Income Tax,
Central Circle 2(4),
Investigation Building,
No.46 (Old.No.108), Mahatma Gandhi Road,
Nungambakkam, Chennai - 34.

+1 cc to Mr.A.P.Srinivas, Advocate Sr.NO. 58846

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vbm(CO)
A.SK(01.12.2021)