IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.26641 of 2021
and
W.M.P.Nos.28084 & 28085 of 2021

(Through Video Conferencing)

ILV Distripark Private Limited,
Represented by its Director,
Shri.Mehul Shah,
Survey Nos.10 and 61,
Thandalam Arakkonam Road,
Kizhacheri Village,
Thiruvallur District – 631 203. ... Petitioner

Vs

The Additional/Joint/Deputy/Assistant
Commissioner of Income Tax/
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 pertaining to the impugned assessment order dated 26.09.2021 bearing DIN ITBA/AST/S/143(3)/2021-2022/1035901850(1) purportedly passed under Section 143(3) read with Section 144B of the Income Tax Act, 1961 for the Assessment Year 2018-2019 by the respondent and quash the same.

For Petitioner : Ms.T.V.Muthu Abirami

For Respondent : Mrs.Hema Muralikrishnan
Senior Standing Counsel

ORDER

Mrs.Hema Muralikrishnan, learned Senior Standing Counsel takes notice on behalf of the respondent.

2. The petitioner has challenged the impugned Assessment Order dated 26.09.2021. The petitioner has already been issued with three Show Cause Notices dated 23.04.2021, 08.06.2021 and 15.09.2021. The previous two Show Cause Notices was followed with notices issued under Section 142(1) of the Income Tax Act, 1961 which called upon the petitioner to furnish certain details. The third mentioned Show Cause Notice finally also fixed the time for giving a reply as 21.09.2021. A personal hearing was also fixed on the aforesaid date.

3. The petitioner participated in the personal hearing held on 21.09.2021 and undertook to file written submission which was complied by the petitioner on 23.09.2021.

4. It is the case of the petitioner that certain documents were to be furnished which could not be furnished by the petitioner and therefore the petitioner sought for further time which was rejected in the system as the assessment was time bound and the respondent was bound to pass assessment order before 30.09.2021.

5. The learned counsel for the petitioner would submit that the information has also been obtained by the petitioner on 25.09.2021 but the petitioner was unable to upload the same as the system did not permit for the same.

6. Opposing the prayer, the learned Senior Standing Counsel for the respondent submits that it is not the first time when the details were called for. It is further submitted that the issue arising out of the infusion of capital by the Director for a sum of Rs.2,22,18,750/- arising out of the same issue and has been the subject matter of the assessment and the petitioner was called upon to furnish the information even earlier.

7. Heard the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondent.

8. It is noticed that the petitioner had adequate opportunity to file the documents earlier. These informations were not sought for the first time after the third Show Cause Notice was issued. Since the assessments are time bound under the statute and since the petitioner was also given adequate opportunity for a personal hearing, I do not find any merits in the present writ petition.

9. The petitioner is directed to file a statutory appeal and workout the remedy before the Appellate Commissioner against the

impugned order under Section 146A of the Income Tax Act, 1961 within a period of thirty days from the date of receipt of a copy of this order. However, there shall be an order of stay of the recovery proceedings alone pursuant to the impugned Assessment Order subject to the petitioner depositing 5% of the disputed tax within a period of four weeks from today.

10. This Writ Petition stands disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

arb

To

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

+2cc to M/s.T.V.Muthu Abirami, Advocate SR.No.67180
+1cc to M/s.Hema Murali Krishnan, Advocate SR.No.67264

W.P.No.26641 of 2021
and
W.M.P.Nos.28084 & 28085 of 2021

SRA(CO)
CB(04/01/2022)