IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.28990 of 2018
and
W.M.P.Nos.33892, 33895 & 33899 of 2018
and
W.M.P.No.1927 of 2020

M/s.Anand Cine Service
Represented by Mr.Anand Prasad
Partner
No.3, Sarangapani Street,
T-Nagar, Chennai - 600 017. ..Petitioner

Vs.

Assistant Commissioner of Income Tax,
Non-Corporate Circle 20(1),
Aayakar Bhavan, Annexure Building,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai - 600 034. ..Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent contained in its notice No.ITBA/AST/S/148/2017-18/1009512166(1) issued under Section 148 of the Income Tax Act, 1961, for PAN:AAAFA4996K, dated 28.03.2018, for assessment year 2013-14, and all proceedings in furtherance thereof, including the notice F.No.AAAFA4996K/AY 2013-14/ACIT/NCC-20(1)/Chennai issued under Section 142(1) of the Income Tax Act, 1961, for PAN:AAAFA4996K, dated 22.10.2018 and to quash the same as arbitrary, unjust and illegal, and to consequently forbear the respondent from in any manner reassessing the petitioner's income under Section 147 of the Income Tax Act, 1961 for the Assessment Year 2013-14.

For Petitioner : Mr.Suhrith Parthasarathy

For Respondent : M/s.Hema Muralikrishnan
Senior Standing Counsel[IT]

ORDER

The order dated 28.03.2018 passed by the Assistant Commissioner of Income Tax is under challenge in the present writ petition.

2. The order impugned is a Notice under Section 148 of the Income Tax Act.

3. The learned counsel for the writ petitioner reiterated that the order under challenge is non-speaking and therefore, the petitioner is not in a position to defend the case properly.

4. Perusal of the order impugned, reveals that the Assistant Commissioner of Income Tax has stated that he has reasons to believe to re-open the assessment. The competent authority under the Statute, is expected to furnish reasons for forming such an opinion. In the absence of any such reasons, one cannot expect the assessee to defend the case properly. The Hon'ble Supreme Court of India, in clear terms, held that the order, re-opening the assessment must contain the reasons, enabling the assessee to defend the case with reference to the documents and evidences available.

5. This being the basic principles to be followed, the impugned order is non-speaking and therefore, untenable. Accordingly, the order impugned dated 28.03.2018 passed by the Assistant Commissioner of Income Tax in proceedings in No.ITBA/AST/S/148/2017-18/1009512166(1) is quashed and the matter is remanded back to the respondent for fresh consideration and pass a speaking order by following the procedures as contemplated. The said exercise is directed to be done within a period of three (3) months from the date of receipt of a copy of this order. The petitioner is also directed to co-operate for the expeditious disposal of the case by the competent authority under the Statute and Rules.

6. With these observations, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

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To

Assistant Commissioner of Income Tax,
Non-Corporate Circle 20(1),
Aayakar Bhavan, Annexure Building,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai - 600 034.

+1cc to M/s.Hema Muralikrishnan, Advocate SR.No.23071

+1cc to Mr.Arun Karthik, Advocate SR.No.23017

W.P.No.28990 of 2018

RSI(CO)
GMY(04/06/2021)