IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 29.06.2021
CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P. No.33778 of 2018
and
W.M.P.No.39221 of 2018

M/s.Pfizer Healthcare India Private Limited,
(Formerly known as Hospira Healthcare India Private Limited)
Represented by the authorized signatory,
Mr.Bodhisatwa Ray ..Petitioner

Vs.

Deputy Commissioner of Income Tax,
Corporate Circle-5(2)
Room No.512, 5th Floor, Wanaparthy Block,
121, Mahatma Gandhi Road,
Nungambakkam, Chennai-600 034. .. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorari to call for the records on the file of the respondent and quash the impugned notice in PAN:AABCO2190F/2011-12 under Section 143(2) of the Income Tax Act, 1961 dated 07.06.2018 for the assessment year 2011-12.

For Petitioner : Mr.N.V.Balaji

For Respondent : Mr.D.Prabhu Mukunth Arunkumar,
Standing counsel for Income Tax

O R D E R

The Case has been heard through video conferencing

The writ petition is filed challenging the notice issued under Section 143(2) of the Income Tax Act, 1961, dated 07.06.2018, even prior to the disposal of the objections filed by the petitioner.

2.The learned counsel appearing for the writ petitioner made a submission that the procedures contemplated are not followed and even before considering the objections and disposing of the objections, the respondent has hurriedly issued notice under Section 143(2) of the Act and therefore, the notice is untenable.

3.With reference to the same ground, this Court passed an order on 21.06.2021 in W.P.No.39546 of 2016 [Hanon Automotive Systems India Private Limited v. Assistant Commissioner of Income Tax, Chennai] and the relevant paragraphs are extracted hereunder:

> "4.Considering the submissions made by either side, this Court is of the considered opinion that undoubtedly, the order impugned dated 04.02.2016 issued under Section 143 (2) of the Act was not in accordance with the procedures contemplated. Even before furnishing reasons for reopening of assessment and before considering the objections to be submitted by the petitioner/assessee, the Assessing Officer directed the assessee to appear in person or through representative for the purpose of proceeding with the re~assessment. However, the respondent had not acted upon and further, considered the request made by the petitioner and issued an order furnishing reasons for reopening and thereafter, the petitioner had also submitted his objections for the reasoning and the said objections were also considered and an order was passed on 12.09.2016. In view of the fact that the order impugned dated 04.02.2016 issued under Section 143 (2) of the Act is not been acted upon and further, the said order has not caused any prejudice to the interest of the petitioner for the purpose of defending his case, no further consideration is required. However, the order was issued not in accordance with the procedures contemplated. Thus, the order passed by the respondent in proceeding in PAN No.AAACM6890R dated 04.02.2016 became non~est, and the respondent is directed to proceed with all further proceedings issued in accordance with law, and complete the re~assessment proceedings as expeditiously as possible.
>
> 5.Accordingly, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed."

4.In view of the order cited supra, the impugned notice in PAN:AABCO2190F/2011-12, dated 07.06.2018, issued under Section 143(2) of the Act, is quashed and the respondent shall dispose of the objections filed by the writ petitioner as directed in W.P.No.33812 of 2018, dated 29.06.2021, and thereafter, initiate all further proceedings by following the procedures contemplated.

5.With these directions, this writ petition stands allowed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

rpl/mkn

To

The Deputy Commissioner of Income Tax,
Corporate Circle-5(2)
Room No.512, 5th Floor, Wanaparthy Block,
121, Mahatma Gandhi Road,
Nungambakkam, Chennai-600 034.

+1cc to Mr.N.V.Balaji , Advocate SR.No. 30166
+1cc to Mrs.Hema Muralikrishnan, Advocate SR.No. 30049

W.P. No.33778 of 2018
and
W.M.P.No.39221 of 2018

PCH(CO)
B.VC(23.07.2021)