IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.33960 of 2018
and W.M.P.Nos.39438 of 2018 & 12505 of 2019

M/s.RR Donnelley India Outsource
Private Limited,
Rep., by its Authorised Signatory,
Mr.Jyoti Prosad Bose,
43-A, Astron House First Main Road,
R.A.Puram, Chennai-600 028. ..Petitioner

-vs-

1.Assistant Commissioner of Income Tax
Corporate Circle 5(2),
121, Mahathma Gandhi Salai,
Nungambakkam, Chennai-600 034.

2.Principal Commissioner of Income Tax-5,
121, Mahathma Gandhi Salai,
Nungambakkam, Chennai-600 034. ..Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records on the file of the first respondent and quash the impugned order in ACIT/Corp Circle.5(2)/2018-19 dated 03.12.2018 along with the notice under Section 148 of the Income Tax Act in PAN AABCH1990A, in notice number ITBA/AST/S/148/2017-18/1009502597(1) dated 28.03.2018 for the assessment year 2011-12.

For Petitioner : Mr.N.V.Balaji
For Respondents : Ms.Hema Muralikrishnan,
Senior Standing Counsel

ORDER

The initiation of reopening of assessment proceedings by invoking Section 147 of the Income Tax Act, 1961 (hereinafter referred to as "the IT Act"), dated 03.12.2018 and the notice issued under Section 148 of the IT Act, dated 28.03.2018 for the assessment year 2011-12 are under challenge in the present writ petition.

2.The petitioner has raised a preliminary ground regarding the limitation as contemplated under the statute by stating that the very initiation itself is untenable. Undoubtedly, a notice under Section 148 of the IT Act was issued and admittedly, the writ petitioner has submitted his objections with reference to the reopening of assessment.

3.The grievance of the petitioner is that none of the grounds and the objections raised by the petitioner is dealt with by the first respondent-Assistant Commissioner of Income Tax Corporate Circle 5(2), Chennai while disposing of the objections. In other words, proceedings dated 03.12.2018, disposing of the objections filed by the petitioner, is not a speaking order and therefore, the impugned order is untenable.

4.Perusal of the order impugned dated 03.12.2018 reveals that the authority competent records the facts as well as the contentions, but the objection raised by the petitioner has not been dealt with, nor findings are given with reference to such objections. The authorities competent under the IT Act are exercising the powers of quasi judicial authority and therefore, they are bound to provide reasons for arriving decisions. In the absence of any reason, the tenability of the order is questioned.

5.In the present case, the learned Senior Standing Counsel appearing on behalf of the respondents is unable to establish that the objections submitted by the petitioner has been dealt with by the first respondent while disposing of the objections filed by the petitioner. Thus, the case on hand is a fit case to be remanded back for fresh consideration.

6.Accordingly, the impugned order passed by the first respondent in Proceedings No.ACIT/Corp Circle 5(2)/2018-10, dated 03.12.2018 is quashed and the matter is remanded back to the first respondent for fresh consideration, based on the materials available on record and by considering the objections raised by the petitioner. The said exercise is directed to be done by the first respondent within a period of three months' from the date of receipt of a copy of this order and it is made clear that the objections raised by the petitioner are to be considered and a speaking order is to be passed. The petitioner is also expected to cooperate in the proceedings for the early disposal of the objections. The writ petition stands allowed.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

abr

To

1.The Assistant Commissioner of Income Tax
Corporate Circle 5(2),
121, Mahathma Gandhi Salai,
Nungambakkam, Chennai-600 034.

2.The Principal Commissioner of Income Tax-5,
121, Mahathma Gandhi Salai,
Nungambakkam, Chennai-600 034.

+1 cc to M/s.N.V.Balaji,Advocate Sr.No.23732
+1 cc to M/s.Hema Muralikrishnan, Advocate Sr.No.23209

W.P.No.33960 of 2018

SR II(CO)
KKV/21/06/2021