



WEB COPY



W.P.No.644 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.11.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

WP.No.644 of 2020 and
WMP.Nos.756 & 759 of 2020

Ramasamy Krishnamoorthy,
69, Karumarampalayam,
Uthukuli Main Road,
Tirupur – 641 607,
Tamil Nadu, India.

... Petitioner

Vs

Income-Tax Officer,
Office of Assistant Commissioner of Income,
Circle 1, Tirupur.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the Respondent pertaining to the assessment Order dated 30.12.2019 bearing Order No.ITBA/AST/S/143(3)/2019-20/1023465850(1), and the consequential demand notice dated 30.12.2019, issued under Section 156 of the Income Tax Act, 1961 and to quash the same.

For Petitioner : Mr.Akhil Bhansali

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



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ORDER

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Heard Mr.Akhil Bansali, learned counsel for the petitioner and Mr.A.P.Srinivas, learned Senior Standing Counsel for the respondents.

2.The challenge is to an order of assessment passed under the provisions of Income Tax Act, 1961 (in short 'Act') for Assessment Year (AY) 2017-18. The main argument advanced, that which the Court finds quite acceptable is that the impugned order has not been preceded with sufficient or adequate opportunity and hence is contrary to the provisions of natural justice.

3. The show cause notice that has been issued pre-assessment is dated 27.12.2019 and has been forwarded under cover of an e-mail dated 27.12.2019 at 09.19 p.m. listing the matter for hearing the next morning i.e. on 28.12.2019 at 11.15 a.m.

4.In spite of the inadequate time that was furnished to the petitioner, a reply has been filed on 27.12.2019, wherein the petitioner expresses his inability to collect all the particulars that have been sought for under the show cause notice and seeks 48 hours time for submission of the remaining particulars. This request has been ignored and the impugned order has come to be passed on 30.12.2019 without affording any opportunity to the petitioner.

5.This Court is of the view that the impugned order is in utter violation of the principles of natural justice and hence sets aside the same.



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6.The petitioner shall file a response to the show cause notice dated 27.12.2019 along with supporting documents within two (2) weeks from date of receipt of a copy of this order, for which purpose, the website shall be enabled. The petitioner shall be heard thereafter and an order of assessment passed denovo, in accordance with law. Let the entirety of this exercise be completed within a period of twelve (12) weeks from date of receipt of this order.

7.This writ petition is allowed. No costs. Connected miscellaneous petitions are closed.

15.11.2022

Index : Yes / No
Speaking Order
vs

To

Income-Tax Officer,
Office of Assistant Commissioner of Income,
Circle 1, Tirupur.



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Dr.ANITA SUMANTH,J.

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