IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.7745 of 2022
&
W.M.P.Nos.7759 and 7762 of 2022

Sun Power Services
Rep.by its Partner Mr.Sivakumar
...Petitioner

-Vs-

1. Union of India
Ministry of Finance
Income Tax Department
National Faceless Assessment Circle
Mayur Bhawan, Connaught Cirus
New Delhi – 100 001.

2. Office of the Income Tax Officer
Non Corp Ward 8(2) CHE
Room No.502, Annexe Building
V Floor, Aayakar Bhawan
Annexe Building, No.121, Mahatma
Gandhi Road, Nungambakkam
Chennai 600 034.

3. Office of Principal Commissioner of Income Tax
Principal Commissioner of Income Tax – Chennai-4
Ayakar Bhavan, No.121, Mahatma Gandhi Road
Nungambakkam, Chennai 600 034.
...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to notice issued by the 2nd respondent under Section 148 dated 30.03.2021 having reference No.ITBA/AST/S/148/2020-21/03196299(1) issued to the petitioner and quash the same as illegal, unconstitutional and unreasonable and consequently direct the 3rd respondent to issue Form-4 to the petitioner relating to the Income Declaration made by the petitioner under Income Declaration Scheme-2016 forthwith.

For Petitioner : Mr.A.K.Rajaraman

For Respondents : Mrs.Hema Muralikrishnan
Senior Standing Counsel

ORDER

The prayer sought for herein is for a Writ of Certiorarified Mandamus calling for the records pertaining to notice issued by the 2nd respondent under Section 148 dated 30.03.2021 having reference No.ITBA/AST/S/148/2020-21/03196299(1) issued to the petitioner and quash the same as illegal, unconstitutional and unreasonable and consequently direct the 3rd respondent to issue Form-4 to the petitioner relating to the Income Declaration made by the petitioner under Income Declaration Scheme-2016 forthwith.

2. For the Assessment Year 2013-14, in order to reopen the assessment under Section 147 of the Income Tax Act, 1961 (In short 'the Act') notice under Section 148 of the Act was issued on 30.03.2021.

3. Thereafter, reasons seems to have been sought for and objections had been raised for the reasons supplied and ultimately, having rejected the said objections, the Revenue proceeded to complete the assessment. Only at this juncture, the notice under Section 148 date 30.03.2021 is under challenge in this writ petition.

4. When the writ petition is taken up for hearing, Mrs.Hema Muralikrishnan, learned Senior Standing Counsel appearing for the Revenue, on instructions would submit that, the assessment under Section 147 has been completed and assessment order also has been passed and uploaded in the web portal on 28.03.2022.

5. Heard Mr.A.K.Rajaraman, learned counsel for the petitioner. Though he made some attempt to canvass the points on merits as against the very Section 148 notice itself, this Court is not impressed with the same since, now the assessment order has been passed, as against which the petitioner can very well file an appeal if the petitioner is advised to do so and whatever the petitioner wants to canvass in this writ petition challenging the Section 148 notice, can very well be placed before the appellate authority while making a challenge against the assessment order dated 28.03.2022.

6. In that view of the matter, this writ petition is not entertainable at this stage. Therefore, it is liable to be dismissed and it is accordingly dismissed, of course with a liberty to the petitioner to challenge the assessment order

before the appellate authority in the manner known to law. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

KST

To

1. The Union of India
   Ministry of Finance
   Income Tax Department
   National Faceless Assessment Circle
   Mayur Bhawan, Connaught Cirus
   New Delhi – 100 001.

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3. The Office of Principal Commissioner of Income Tax
   Principal Commissioner of Income Tax – Chennai-4
   Ayakar Bhavan, No.121, Mahatma Gandhi Road
   Nungambakkam, Chennai 600 034.

+1cc to Mr.A.K.Rajaraman, Advocate, S.R.No.22122
+1cc to Mrs.Hema Muralikrishnan, Advocate, S.R.No.22499

W.P.No. 7745 of 2022

KV[co]
NSK/19/05/2022