IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition Nos.10222 & 10225 of 2022
and W.M.P.Nos.9929, 9930, 9931, 9935, 9936 & 9938 of 2022

M/s.Emerald Jewellery Retail Ltd.,
(now known as M/s.Emerald Jewellery
Industry India Ltd.,) No.231-1, TV Samy
Road, RS Puram, Coimbatore
Tamil Nadu - 641 001
PAN No.AACCE5679C ... Petitioner in both W.Ps.

-Vs-

1. The Deputy Commissioner of Income Tax
   National Faceless Assessment Centre,
   Delhi, E-Ramp, Jawaharlal Nehru Stadium
   Delhi - 110 003.

2. The Deputy Commissioner of Income Tax
   Corporate Circle 1, Income Tax Department
   No.63, Race Course Road, Coimbatore
   Tamilnadu - 641 018.

3. The Principal Commissioner of Income Tax
   Coimbatore, Income Tax Department
   No.63, Race Course Road
   Coimbatore, Tamilnadu 641 018. ...Respondents in both WPs

Prayer in W.P.No.10222 of 2022: Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of certiorarified mandamus to call for the records of the writ petitioner company on the file of the first respondent to quash the impugned order dated 30.03.2022 passed u/s.147 read with Section 144B of the Act for the Assessment Year 2013-14 in ITBA/ AST/ S/ 147/ 2021-22/ 1042073665(1) and consequently direct the 1st respondent to provide the reasons for re-opening as well as reasonable/sufficient opportunity of hearing before completing the fresh re-assessment.

Prayer in W.P.No.10225 of 2022: Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of certiorarified mandamus to call for the records of the writ petitioner company on the file of the first respondent to quash the impugned order dated 29.03.2022 passed u/s.147 read with Section 144B of the Act for the Assessment Year 2014-15 in ITBA/ AST/ S/ 147/ 2021-22/ 1041993893(1) and consequently direct the 1st respondent to provide the reasons for re-opening as well as reasonable/sufficient opportunity of hearing before completing the fresh re-assessment.

For Petitioner : Mr.A.S.Sriraman

For Respondents : Mr.A.N.R.Jayapratap
Junior Standing Counsel

COMMON ORDER

In these writ petitions, the petitioner assessee was subjected to reopening of assessment under Section 147 of the Income Tax Act, 1961 (In short 'the Act') for the assessment years 2013-14 and 2014-15. Therefore, notice under Section 148 of the Act was issued, pursuant to which the assessment proceedings went on and ultimately on 21.03.2022, a final show cause notice with draft assessment order was issued by the Revenue seeking response from the petitioner assessee on or before 24.03.2022 at 23:59 Hrs.

2. In order to give reply to the said show cause notice on 24.03.2022, after having prepared the reply when the petitioner made an attempt to upload it in the web portal of the Revenue, the information received by the petitioner from web portal even at 19:09 Hrs on 24.03.2022 was that the e-submission was closed by the officer.

3. Therefore, it becomes evident that, even before the closing time of 23:59 Hrs on 24.03.2022, the web portal was closed. Hence, the petitioner could not file any reply even though the reply was made ready and ultimately, without having the reply of the petitioner assessee to the show cause notice, the final assessment order was passed on 30.03.2022 and 29.03.2022 respectively in these writ petitions. Therefore, challenging the same these writ petitions are filed.

4. Heard Mr.A.S.Sriraman, learned counsel for the petitioner who pointed out this infirmity and would submit that, this earlier closure of the web portal even before the closing time would amount to violation of principles of natural justice.

5. Heard Mr.A.N.R.Jayapratap, learned Junior Standing Counsel appearing for the Revenue, who would submit that, due to technical snag if the web portal was closed on 24.03.2022 at 19:09 Hrs, the reply if at all is ready, the same can be

uploaded now, for which the web portal can be directed to be opened, however, within a shortest possible time which may be stipulated by this Court, such reply can be uploaded, based on which the revised order can be passed by the Revenue.

6. Considering the submissions made by the learned counsel on both sides and taking into account the factual matrix of the case, where, before the closing time as per the show cause notice since the web portal was closed, the reply though was made ready on 24.03.2022 could not be uploaded by the petitioner assessee, this Court is of the view that, it amounts to violation of principles of natural justice and is inclined to pass the following order in these writ petitions.

- The respective impugned orders in these writ petitions are hereby set aside and the matters are remitted back to the Revenue for reconsideration.

- In this process, the show cause notice dated 21.03.2022 shall be treated as fresh notice as no further show cause notice would be issued by the Revenue and pursuant to which, it is open to the petitioner to upload the reply which has been prepared and was made ready for uploading on 24.03.2022 itself through the web portal.

- In this regard, there shall be a further direction to the respondent Revenue to keep the web portal open enabling the petitioner assessee to upload the reply within two weeks from the date of receipt of a copy of this order.

- On receipt of such reply, it is open to the Revenue to consider the same and pass orders.

7. With the above directions, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

KST

To

1. The Deputy Commissioner of Income Tax
   National Faceless Assessment Centre, Delhi E-Ramp,
   Jawaharlal Nehru Stadium, Delhi – 110 003.

2. The Deputy Commissioner of Income Tax
   Corporate Circle 1, Income Tax Department
   No.63, Race Course Road, Coimbatore
   Tamilnadu – 641 018.

3. The Principal Commissioner of Income Tax
   Coimbatore, Income Tax Department
   No.63, Race Course Road, Coimbatore, Tamilnadu 641 018.

+1cc to M/s.S.Sridhar, Advocate, S.R.No.29911

W.P.Nos.10222 & 10225 of 2022

PMK(CO)
CT 13/06/2022