IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.10198 of 2022
and
W.M.P.Nos.9898, 9899 & 9900 of 2022

Photon Infotech Private Limited
No.7, 7th Cross Street, Shastri Nagar
Adyar, Chennai 600 020, Represented by its
Authorized Signatory Mr.Sanjiv C Lochan

...Petitioner

-Vs-

The Assistant Commissioner of Income Tax
Circle 1, LTU, Wanaparthy Block, 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 Certiorari to call for the records of the petitioner on the file of the Respondent and quash the impugned order under section 148A(d) of the Income Tax Act 1961 dated 26.03.2022 in DIN and Notice No. ITBA/ AST/F/ 148A/ 2021-22/ 1041618584(1) and the consequential notice u/s. 148 dated 26.03.2022 in ITBA/ AST/S/ 148_1/ 2021- 22/ 1041620270(1) for the Assessment year 2018 -19.

For Petitioner : Mr.V.Vikram
for M/s.Subbaraya Aiyar Padmanabhan

For Respondent : Mr.D.Prabhu Mukunth Arunkumar
Junior Standing Counsel

O R D E R

The prayer sought for herein is for a Writ of Certiorari to call for the records of the petitioner on the file of the Respondent and quash the impugned order under section 148A(d) of the Income Tax Act 1961 dated 26.03.2022 in DIN and Notice No. ITBA/ AST/F/ 148A/ 2021-22/ 1041618584(1) and the consequential notice u/s. 148 dated 26.03.2022 in ITBA/ AST/S/ 148_1/ 2021- 22/ 1041620270(1) for the Assessment year 2018 -19.

2. The petitioner is an assessee under the respondent within the meaning of the provisions of the Income Tax Act, 1961 (In short 'the Act'). In order to reopen the assessment for the assessment year 2018-19 under Section 147 of the Act, notice was issued under Section 148, before which the Revenue has to exhaust the procedure contemplated under Section 148A of the Act. Under that process, a notice under Section 148A(b) was issued on 18.03.2022 giving only six days time upto 24.03.2022 to the assessee to respond.

3. On receipt of the said notice, the petitioner assessee, on 23.03.2022 filed a reply, which was received and acknowledged by the Revenue and the proof to such effect also has been filed in the typed set of papers. However, the Revenue proceeded to pass the final orders on 26.03.2022 for the Assessment Year 2018-19 as if that no reply has been filed by the assessee.

4. Heard Mr.Vikram, learned counsel for the petitioner who reiterated the aforesaid facts, as well as Mr.D.Prabhu Mukunth Arunkumar, learned Junior Standing Counsel appearing for the Revenue.

5. I have considered the submissions made by the learned counsel on either side and have perused the materials placed on record.

6. Since the reply has been filed within the time and the same since was received and acknowledged by the Revenue, it should have been taken into consideration. However, the impugned order dated 26.03.2022 does not speak anything about the said reply and it has been stated as if that the petitioner has not filed any reply. Therefore, it is a violation of the principles of natural justice.

7. In that view of the matter, this writ petition is disposed of with the following order.

- That the impugned order dated 26.03.2022 is set aside and the matter is remitted back to the respondent Revenue for reconsideration.R. SURESH KUMAR, J.

- While reconsidering the same, the respondent Revenue is directed to consider the reply given by the petitioner dated 23.03.2022 and pass orders thereon on merits and in accordance with law as expeditiously as possible.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

KST

To
The Assistant Commissioner of Income Tax
Circle 1, LTU, Wanaparthy Block, 121
Mahatma Gandhi Road, Nungambakkam
Chennai 600 034.

+1cc to M/s.Hema Muralikrishnan Advocate, S.R.No.29935
+1cc to M/s.Subbaraya Aiyar Padmanabhan, Advocate, S.R.No.29618

W.P.No. 10198 of 2022

SR[co]
NSK/24/05/2022