IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.10196 of 2022
and
W.M.P.Nos.9894 & 9895 of 2022

GBT Knits
represented by its Partner
P.Govindaraj, No.20, Cotton Mill Road
2nd Street, P.N.Road, Tiruppur-641 042
PAN No.AAOFG7122G ... Petitioner

-Vs-

1. Income Tax Officer
   National Faceless Assessment Centre
   Delhi.

2. The Income Tax Officer
   Ward -1(1), No.121, Adams Building
   Sixty Feet Road, Tiruppur. ... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of the first respondent relating to the assessment order passed u/s. 147 r.w.s 144 r.w.s. 144B of theIncome Tax Act 1961 dated 11.03.2022 in DIn ITBA / AST / S / 147 / 2021 -22 / 1040608956 (1) for the Assessment year 2017-18 and quash the same.

For Petitioner : Mr.T.Vasudevan

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

O R D E R

This relates to Assessment Year 2017-18. In respect of the said assessment year, the petitioner since has not filed the return, the Revenue wanted to process it under Section 147 of the Act. Therefore, a notice under Section 148 of the Income Tax Act 1961 (In short 'the Act') was issued on 02.02.2022, which the petitioner admittedly received on 04.02.2022.

2. Thereafter, according to the petitioner, no notice had been served on him except the impugned order of assessment dated 11.03.2022, which the petitioner noted through the web portal only on 22.03.2022. Therefore, the learned counsel for the petitioner submits that, if the show cause notice in between issued on 03.03.2022 is once again served on the petitioner or if the petitioner is permitted to treat the said notice as a fresh one to respond within a reasonable time to be stipulated by this Court, the petitioner would respond and face the assessment.

3. Heard Mr.A.N.R.Jayapratap, learned Junior Standing Counsel appearing for the respondent Revenue, who would submit that, all notices including the final show cause notice since have been issued, it cannot be treated as a case of violation of principles of natural justice. Therefore, the impugned order cannot be assailed by the the petitioner on that ground. Accordingly, the learned Standing Counsel for the Revenue seeks the dismissal of the writ petition.

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

5. Insofar as the show cause notice issued by the Revenue dated 03.03.2022 is concerned, according to the petitioner's counsel, the same has not been served on him and that notice as well as the subsequent assessment order since has been uploaded in the website, which the petitioner was able to retrieve only on 22.03.2022, the petitioner's counsel contended that, there was no chance for the petitioner to reply to the show cause notice. Therefore, if one chance is given to him, certainly the petitioner assessee would reply to the show cause notice and face the assessment.

6. In view of the said circumstances, this Court feels that the impugned order can be set aside and the matter can be remitted back to the respondents with a direction to the respondents to give one more opportunity to respond to the show cause notice dated 03.03.2022.

7. Hence, the following orders are passed in this writ petition.

- The impugned order dated 11.03.2022 is set aside and the matter is remitted back to the respondents for reconsideration.
- While reconsidering the matter, it is open to the assessee to treat the show cause notice dated

03.03.2022 as the fresh show cause notice, as the same would not be again issued by the Revenue and respond to the same, by giving documents and inputs / reply within two weeks from the date of receipt of a copy of this order.

- On receipt of such reply from the petitioner, it is open to the respondents to consider the same and pass final assessment order thereafter,
- In order to enable the aforesaid process, the Revenue is directed to open the portal for the purpose of the assessee to respond and thereafter if any other notice is to be issued or further opportunity is to be given, that also can be undertaken through the web portal, and for that purpose the web portal in the assessee's case can be kept open.

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

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

KST

To

1. Income Tax Officer
   National Faceless Assessment Centre
   Delhi.

2. The Income Tax Officer
   Ward -1(1), No.121, Adams Building
   Sixty Feet Road, Tiruppur.

+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.28066

W.P.No. 10196 of 2022

MT(CO)
SU(05/05/2022)