IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

WRIT PETITION NO.10219 OF 2022
AND
W.M.P.NOS.9922 AND 9924 OF 2022

Grand Housing Private Limited,
Represented by Director,
Mr.Vijay Surana J,
No.2, Grand Square, 2nd Floor,
Aravamuthan Garden Street,
Egmore, Chennai - 600 008. ... Petitioner

-Vs-

1. The Assistant Commissioner of Income Tax,
Corporate Circle 2(1),
121, M.G.Road,
Nungambakkam,
Chennai - 600 034.

2. The Additional/Joint/Deputy/Assistant
Commissioner of Income Tax/
Income Tax Officer,
National Faceless Assessment,
Delhi. ... 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 of the respondents contained in its notice bearing DIN & Notice No.ITBA/AST/148/2020-21/1031517056 (1), dated 16.03.2021 issued by the first respondent under Section 148 of the Income Tax Act, 1961 for PAN: AACCG5454D for Assessment Year 2013-14 and all proceedings in furtherance thereof, including the assessment order bearing DIN:ITBA/AST/S/ 147/2021-22/1042185326(1), dated 30.03.2022 passed by the second respondent under Section 147 r/w Section 144B of the Income Tax Act, 1961 for PAN : AACCG5454D for Assessment Year 2013-14 and to quash the same as arbitrary, illegal and unjust to consequently forbear the respondents or its superiors, subordinates, agents etc., from re-assessing the petitioner's income for the assessment year 2013-14 under Section 147 of the Income Tax Act, 1961.

For Petitioner : Ms.Ashwini Vaidialingam

For Respondents : Mr.D.Prabhu Mukunth Arunkumar
Junior Standing counsel

ORDER

The petitioner is an assessee under the respondents. 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 16.03.2021.

2. In response to the same, on 11.08.2021, the petitioner assessee filed return and he sought for the reasons which had been given along with 143(2) notice dated 25.01.2022 by way of annexure.

3. Though it was questioned by the petitioner that, no such annexure was readily available along with 143(2) notice dated 25.01.2022, it is the stand of the Revenue that, that annexure also was form part of the notice.

4. Subsequently, two times, 142(1) notices were issued and both times response had been made by the petitioner and finally show cause notice on 23.03.2022 was issued, which was also responded electronically by the petitioner assessee on 26.03.2022, thereafter, order of assessment under Section 147 r/w 144B of the Act was passed by the Revenue on 30.03.2022, which is under challenge in this writ petition.

5. Heard Ms.Ashwini Vaidalingam, learned counsel appearing for the petitioner, though she made some attempt citing the reason that, certain documents though sought for by the petitioner assessee, the same had not been provided, therefore, that makes the impugned order of assessment infirm, this Court is not impressed with the same, as the entire procedure has to be followed has already been followed by the Revenue and in turn notice was issued, response was also given by the petitioner assessee and ultimately after issuing final show cause notice, for which also the petitioner has responded, the Revenue has passed the assessment order which is impugned herein.

6. Therefore in this process, I do not find any procedural irregularity as contemplated under various provisions of the Income Tax Act, 1961 as well as the procedure, which was held by

the Hon'ble Supreme Court in GKN Driveshafts (India) Limited Vs. Income Tax Officer and others reported in (2003) 259 ITR 19 (SC). Therefore the impugned order which is under challenge in this writ petition cannot be successfully challenged, as the petitioner can very well go before the Appellate Authority to file a regular quantum appeal before the Commissioner Appeal. Hence, this writ petition is not maintainable for the said reason of non exhausting the alternative efficacious remedy and accordingly, it is liable to be dismissed.

7. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

tsvn

To

1. The Assistant Commissioner of Income Tax,
Corporate Circle 2(1),
121, M.G.Road, Nungambakkam,
Chennai - 600 034.

2. The Additional/Joint/Deputy/Assistant
Commissioner of Income Tax/
Income Tax Officer,
National Faceless Assessment,
Delhi.

+1cc to M/s.Suhrith Parthasarathy, Advocate, S.R.No.28263
+1cc to M/s.Hema Muralikrishnan, Advocate, S.R.No.28803

W.P.NO.10219 OF 2022

AD(CO)
PBS/24/05/2022