IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.10693 of 2022
and W.M.P.Nos.10328, 10331 & 10332 of 2022

Sundararajan ...Petitioner

vs.

Income Tax Officer,
Non-corporate Ward 19(4),
Chennai. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of respondent contained in its impugned order dated 29.03.2022 issued under Section 148A of the Income Tax Act, bearing ITBA/AST/F/148A/2021-22/1041998948(1) for PAN: ADVPV2534Q, for Assessment Year (AY) 2018-19, and all proceedings in furtherance thereof, including the notice issued under Section 148 of the Income Tax Act, bearing DIN & Notice No.ITBA/AST/S.148_1/2021-22/1042187852(1), dated 30.03.2022, PAN: ADVPV2534Q for Assessment Year 2018-19 and to quash the same.

For Petitioner : Mr.Suhrith Parthasarathy

For Respondents : Mrs.Hema Muralikrishnan
Senior Standing Counsel

ORDER

The prayer sought for herein is for issuance of Writ of Certiorari to quash the impugned proceedings in DIN & Notice No.ITBA/AST/F/148A/2021-22/1041998948(1) dated 29.03.2022 issued by the respondent under the provisions of Section 148A(d) of Income Tax Act, 1961[hereinafter “the said Act”] and in furtherance thereof, including the notice issued under Section 148 of the Income Tax Act, bearing DIN & Notice No.ITBA/AST/S.148_1/2021-22/1042187852(1), dated 30.03.2022.

2. It is relates to the Assessment Year 2018-19. The petitioner is an assessee under the respondent.

3. The learned counsel for the petitioner submitted that, the Revenue has found that there was an "escaped assessment" for the Assessment Year 2018-19 and therefore, in order to re-open the assessment under Section 147 of the said Act, the Revenue issued notice dated 15.03.2022 under Section 148A(b) of the said Act and in response to the said notice, the petitioner has to file his reply within a period of 7 days under the provisions of law. However, the respondent was not granted 7 days as mandated, the petitioner was unable to gather relevant documents. Accordingly, on 22.03.2022, the petitioner sent an email to the respondent, seeking extension of time till 20.04.2022. However, the respondent has not consider the same and proceeded to pass order under Section 148A(d) dated 29.03.2022. On the next day i.e., 30.03.2022, the petitioner was issued another notice under Section 148 of the Act. Challenging the aforesaid impugned order dated 29.03.2022, this Writ Petition has been filed.

4. Heard the learned Senior Standing Counsel appearing for the respondent.

5. First of all, Section 148A(b) of the said Act provides that, the Assessing Authority has to provide an opportunity of being heard to the assessee, with the prior approval of specified authority, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than seven days and not exceeding 30 days from the date on which the said notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice under Section 148 of the said Act should not be issued on the basis of the information which suggests that income chargeable to tax has "escaped assessment" in his case for the relevant assessment year and results of enquiry conducted, if any, as per Clause (a). Therefore, further time of 30 days as sought for by the petitioner, has to be entertained at the time of considering the final assessment proceedings.

6. In view of the above provisions of law, this Court is inclined to allow this writ petition. Accordingly, this Writ Petition is allowed with the following directions:

- The impugned order is set aside. However the petitioner is directed to send a reply within three (3) days from the date of receipt of a copy of this order.

- If such reply is received, the respondent is directed to pass appropriate orders within a period of one week thereafter.

- No costs. Consequently, Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

mp/anu

To

Income Tax Officer,
Non-corporate Ward 19(4),
Chennai.

+1cc to Mr.Suhrith Parthasarathy, Advocate SR. No. 29763
+1cc to M/s.Hema Muralikrishnan, Advocate SR. No. 29938

W.P.No.10693 of 2022

SPD (CO)
PR (01/06/2022)