IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition Nos. 10469 & 10474 of 2022
and
W.M.P.Nos.10162 & 10164 of 2022

M/s. Renault India Private Limited,
represented by its authorised signatory
Xavier Lacroix

...Petitioner in both W.P.s

-Vs-

1. Additional / Joint / Deputy / Assistant Commissioner of Income Tax
Income Tax Officer,
National e-Assessment Centre,
Delhi.

2. The Principal Commissioner of Income Tax, Chennai-4
121, Mahatma Gandhi Road,
Nungambakkam,
Chennai-600 034.

3. Assistant Commissioner of Income Tax,
Circle 1, LTU,
121, Mahatma Gandhi Road,
Nungambakkam, Chennai-600 034.

.. Respondents in both W.P.s

Prayer in W.P.No. 10469 of 2022 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the file of the respondents and quash the impugned order in PAN AADCR2042M in DIN No.ITBA/AST/S/147/2021-22/1042202005(1) dated 30.03.2022 passed by the first respondent under Section 147 read with Section 144B of the Income Tax Act, 1961 for the AY 2013-14 along with notice issued by the third respondent and Section 148 of Income Tax Act in DIN & Notice No.ITBA/AST/S/148/2020-21/1031946333(1) dated 30.03.2021 for AY 2013-14.

Prayer in W.P.No. 10474 of 2022 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the file of the respondents and quash the impugned order in PAN AADCR2042M in DIN No.ITBA/AST/S/147/2021-22/1042115309(1) dated 30.03.2022 passed under Section 147 read with Section 144B of the Income Tax Act, 1961 for the AY 2014-15 along with notice issued by the third respondent and Section 148 of Income Tax Act in DIN & Notice No.ITBA/AST/S/148/2020-21/1031915334(1) dated 30.03.2021 for AY 2014-15.

In Both W.Ps.

| | | |
|---|---|---|
| For Petitioner | : | Mr. N.V.Balaji |
| For Respondents | : | Mrs. Hema Muralidharan,<br>Senior Standing Counsel |

COMMON ORDER

The petitioner is an assessee under the respondents. In respect of the assessment years 2013-14 and 2014-15, the Revenue wanted to reopen the assessment under Section 147 of the Income Tax Act, 1961 (In short 'the Act'). Hence, notice under Section 148 of the Act was issued, pursuant to which the assessment proceedings went on. Ultimately, a show cause notice was issued on 29.03.2021 by the Revenue, giving time to the petitioner assessee to give reply on or before 30.03.2021.

2. In respect of one case ie., in W.P.No.10469 of 2022 is concerned, which relates to Assessment Year 2013-14, the reply itself was given on 30.03.2021 and the e-acknowledgement has also been given by the Revenue on receipt of such reply. Insofar as the other case ie., W.P.No.10474 of 2022 is concerned, which relates to Assessment Year 2014-15, time was given upto 30.03.2021 23:59 Hrs, before which the petitioner made an attempt through the web portal to give reply, by the time the web portal was closed. Hence, in both the cases, the assessment orders dated 30.03.2021 are under challenge in these writ petitions on the ground that, no proper opportunity was given to reply or response and even in case where the response is given, the same has not been considered, which according to the learned counsel for the petitioner, is violative of the principles of natural justice.

3. Heard Mrs.Hema Muralikrishnan, learned Senior Standing Counsel appearing for the respondent Revenue, who would submit that, insofar as the first case is concerned, reply has not been given before the cut off date and time and therefore any subsequent reply filed could not be taken into account. Insofar

as the second case is concerned, even though the petitioner claims that he has made an attempt, there is no proof for such attempt and therefore the impugned orders were passed o 30.03.2021, which are to be sustained, she contended.

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

5. In both the cases, the show cause notice was given on 29.03.2021 and only one day time was given to the assessee to respond. That itself is not acceptable because within 24 hours it cannot be expected that a reply can be effectively given by the assessee.

6. Be that as it may. In the first case, the reply has been given for which acknowledgement is also given. However, the impugned assessment order has been passed on 30.03.2021. In respect of the other writ petition, even that chance was not given to the petitioner, as before 29.03.2021 23:59 Hrs, the web portal of the Revenue since has been closed, the attempt made by the petitioner assessee has not yielded any result. Therefore, both the cases can be categorized as a case where the principles of natural justice was violated. Hence, on that sole ground, this Court is inclined to dispose of these writ petitions with the following order.

- That the impugned orders dated 30.03.2021 are set aside and the matters are remitted back to the respondents for reconsideration.

- While reconsideration, the show cause notices dated 29.03.2021 in both the cases shall be treated as fresh show cause notice and no fresh show cause notice further would be issued by the Revenue and accordingly, treating the same as fresh show cause notice, it is open to the petitioner assessee to file a detailed reply and documents, if any, within a period of 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 pass orders after giving an opportunity of personal hearing to the petitioner assessee by way of video conference, if it is asked for and thereafter pass final assessment orders on merits and in accordance with law.

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

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

KST
To

1. The Additional / Joint / Deputy / Assistant Commissioner of Income Tax
Income Tax Officer,
National e-Assessment Centre, Delhi.

2. The Principal Commissioner of Income Tax,
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121, Mahatma Gandhi Road,
Nungambakkam,Chennai-600 034.

3. The Assistant Commissioner of Income Tax,
Circle 1, LTU,
121, Mahatma Gandhi Road,
Nungambakkam, Chennai-600 034.

+1cc to Mr. N.V.Balaji, Advocate, S.R.No.29173
+1cc to M/s.Hema Muralikrishnan, Advocate, S.R.No.28801

W.P.Nos. 10469 & 10474 of 2022

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NSK/13/05/2022