IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.06.2022

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.Nos.11515 of 2021 & 10064 of 2022
&
W.M.P.Nos.12261 & 12263 of 2021 & W.M.P.Nos.9770 & 9771 of 2022

In all W.Ps.

Sengadu Properties Pvt. Ltd.
Represented by its Director
Mr.Raghunatha Reddy Kasireddy,
Erstwhile office at
No.115, First Floor, Kothari Building,
Nungambakkam High Road, Nungambakkam
Nungambakkam; Chennai – 600 034
Presently having the Register Office at:
Poly House Towers, 5th Floor, SPIC Annexe
No.88, Mount Road, Guindy
Chennai – 600 032. ...Petitioner

Vs.

1.The Central Board of Direct Taxes,
Represented by its Chairperson
Department of Revenue – Ministry of Finance
Government of India
New Delhi.

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

Prayer in W.P.No.11515 of 2021: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 2nd respondent and quash the impugned order in ITBA/AST/S/143(3)/2021-22/1032378390(1) dated 12.04.2021 passed by the 2nd respondent as illegal and violation of principles of natural justice and consequently direct the 2nd respondent to provide an opportunity of personal hearing in accordance with law.

Prayer in W.P.No.10064 of 2022: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorari, calling for the records on the file of the 2nd respondent and quash the impugned order in ITBA/PNL/F/270A/2021-22/1041181426(1) dated 21.03.2022 passed by the 2nd respondent, pending disposal of the above writ petition.

In all W.Ps.
For Petitioner : Mr.R.Sivaraman

For Respondents : Mr.ANR Jayaprathap
Junior Standing Counsel

COMMON ORDER

The petitioner is an assessee on the file of the second respondent. The challenge is to an order of assessment dated 12.04.2021, passed in respect of assessment year 2018-19 in terms of the provisions of the Income Tax Act, 1961 ('Act'). The main challenge is on the grounds of violation of principles of natural justice.

2. The assessment has been framed in the terms of the E-Assessment Scheme under Notification No.61/2019 dated 12.09.2019. Admittedly, in this case there has been no opportunity of personal hearing that has been granted,

despite the petitioner specifically seeking the same in its reply to show cause notice dated 09.04.2021.

3. Show cause notice dated 09.04.2021, called for a reply to be filed on or before 12.04.2021 by 23:59 hours. Even though the reply has been duly taken note of while passing the impugned assessment order, no opportunity of personal hearing has been granted, as sought for.

4. The defence of the respondent as set out in paragraph 4 of the counter is that a separate link for video conference was forwarded to the petitioner that should have been clicked upon, to avail the option for video conferencing. However, the petitioner did not exercise the option by clicking the link provided.

5. Notwithstanding the position that there is some dispute whether such a link was active at all it does not stand to reason that personal hearing should be denied merely on the ground that the link provided was not activated. It is for the respondent to ensure an that an effective opportunity of hearing had been afforded and this has, admittedly, been denied in this case.

6. Hence, the impugned order is set aside and the assessment shall stand revived from the stage of grant of personal hearing, which shall be provided to the assessee within a period of four weeks from date of issuance of a copy of this order. After taking note of the oral and written submissions of the

petitioner, orders shall be passed, expeditiously thereafter. The petitioner is also permitted to file additional written submissions. The entirety of exercise shall not exceed 90 days from the date of issuance of a copy of this order.

7. Consequent upon the impugned order of assessment dated 12.04.2021 in W.P.No. 11515 of 2021, penalty proceedings were initiated and culminated in an order of penalty dated 21.03.2022 that has been assailed in W.P.No.10064 of 2022.

8.Since the matters are intrinsically connected, W.P.No.10064 of 2022 is listed today i.e,15.06.2022 under a special list. Since the order of assessment dated 12.04.2021, based upon which the penalty has been levied, has been set aside, the impugned order of levy of penalty dated 21.03.2022 has no legs to stand and is also set aside.

9.These writ petitions are allowed. Connected writ miscellaneous petitions are closed. No costs.

15.06.2022

nst
Index : Yes / No
Speaking Order / Non Speaking Order

To

1.The Central Board of Direct Taxes,
Represented by its Chairperson
Department of Revenue – Ministry of Finance
Government of India
New Delhi.

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

Dr.ANITA SUMANTH,J.

nst

W.P.Nos.11515 of 2021 & 10064 of 2022

&

W.M.P.Nos.12261 & 12263 of 2021 & W.M.P.Nos.9770 & 9771 of 2022

15.06.2022