IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

WP.No.11605 of 2021
and
WMP.Nos.12354 & 12356 of 2021

M/s.Amco Batteries Limited,
803, Addison Buildings,
Anna Salai, Chennai - 600 002,
Represented by its Director
P.B.Sampath ... Petitioner

Vs

National e-Assessment Centre,
Income Tax Department,
Ministry of Finance, Delhi. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the Respondent and annul the impugned order passed under Section 143(3) r.w.s 144B of the Act dated 21.04.2021 in PAN:AABCA1726F for the Assessment year 2018-19 in DIN No.ITBA/AST/S/143(3)/202-22/1032583822 (1) quash the same and direct the Respondent to pass fresh assessment order after affording opportunity to the Petitioner.

For Petitioner : Mr.R.Vijayaraghavan
for M/s.Subbaraya Aiyar Padmanabhan

For Respondent : Mrs.Hema Muralikrishnan
Senior Standing Counsel

O R D E R

The petitioner is a Limited Company and assails the impugned order of assessment dated 21.04.2021 for assessment year 2018-19. The challenge to the assessment is on the ground of violation of principles of natural justice.

2. The petitioner was in receipt of the show cause notice incorporating a draft assessment, which is dated 12.04.2021. The show cause notice/draft assessment order (DAO) granted time up to 14.04.2021 23.59 hours to either accept the proposal for modification or file a reply objecting to the same, and, if so required, seek an opportunity of personal hearing.

3. The petitioner responded immediately by reply dated 13.04.2021, asking for an extension of time on the ground that the intervening days were holidays and as such the collation of particulars in relation to the 19 items in respect of which details had been sought, would necessitate some time. This request has, admittedly, been uploaded upon the website on the same date and an acknowledgment for the same is available.

4. While this is so, and without either accepting or rejecting the request, the Assessing Authority proceeded to pass the impugned order on 21.04.2021 itself. Hence, this writ petition.

5. Clearly and from the sequence of dates and events as recorded above, there has been a violation of the principles of natural justice, insofar as the petitioner's request for an adjournment has admittedly been uploaded in the portal and ought to have been taken note of by the Assessing Authority.

6. That apart, the time granted even at the original instance was only two days which, in my view, is woefully inadequate. In light of the aforesaid discussion, the impugned order of assessment is set aside and matter shall stand revived from the stage of grant of opportunity.

7. Since the petitioner only prays for a remand, the assessment is set aside and remanded to the file of respondent. The petitioner is granted four weeks time from date of issuance of this order, to file its reply to the proposals contained in the show cause notice, as well as the points raised in the impugned order, that shall also be read as a show cause notice and nothing more.

8. The petitioner shall be heard thereafter and an order passed by the Assessing Authority taking note of the submissions of the assessee both written and oral as well as any supportive documents filed. The entirety of the exercise shall be completed within 90 days from date of issuance of this order.

9.With this, this writ petition stands allowed. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

kbs

To

National e-Assessment Centre,
Income Tax Department,
Ministry of Finance,
Delhi.

+1cc to M/s.Subbaraya Aiyar Padmanabhan, Advocate, S.R.No.36312
+1cc to Mrs.Hema Muralikrishnan, Advocate, S.R.No.35837

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EV(CO)
CT/28/07/2022