IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.06.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.14193 of 2022
and
WMP Nos.13431, 13433 and 13435 of 2022

Mr.Maddipattala Narayana Sridhar
... Petitioner

Vs.

1. The Deputy/Assistant Commissioner of Income Tax,
Central Circle – 1(2)
Income Tax Department,
108, Mahatma Gandhi Road,
Chennai – 600 034.

2. The Principal Commissioner of Income Tax (Central),
Chennai -1, Income Tax Department,
108, Mahatma Gandhi Road,
Chennai – 600 034.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the Writ Petitioner company on the file of the first respondent to quash the impugned order dated 28.03.2022 passed under Section 147 of the Act for the assessment year 2014-15 in ITBA/AST/147/2021-22/1042004752(1) and consequently direct the first respondent to complete the fresh assessment for the assessment year 2014-15 after granting reasonable/sufficient opportunity of hearing.

For Petitioner : Mr.AS.Sriraman

For Respondent : Mr.ANR.Jayaprathap
Junior Standing Counsel

O R D E R

Mr.ANR.Jayaprathap, learned Junior Standing Counsel accepts notice for the respondents and is possession of necessary instructions to enable final disposal of this Writ Petition even at the stage of admission. Hence, by consent of both sides and seeing as the matter falls within a short compass, final orders are passed at this stage.

2. The challenge is to an order of re-assessment dated 28.03.2022 passed in terms of the provisions of the Income Tax Act, 1961 (in short 'Act') for the assessment year 2014-15. The main ground agitated relates to the violation of the principles of natural justice. Since this ground appeals and in view of the order passed hereinafter, I do not refer to other grounds raised in this Writ Petition.

3. The petitioner was in receipt of notice dated 31.03.2021 issued under Section 148 of the Act and complied with the requirements thereunder. Thereafter, objections were filed to the reasons for re-assessment, assailing the assumption of jurisdiction for re-assessment, which had come to be disposed by a speaking order dated 18.03.2022, though adverse to the petitioner.

4. It was incumbent upon the authority to have issued a notice under Section 143(2) thereafter, heard the petitioner, considered its submissions as well as any other material that was placed before him, both on the aspects of jurisdiction as well as on merits, prior to passing an order of assessment.

5. In complete violation of this procedure, the impugned order has come to be passed without any notice/show cause notice issued to the petitioner. Since violation of principles of natural justice is writ large and learned Standing Counsel for the respondents has no defence in this regard, the impugned order is liable to be set aside and I do so.

6. The respondent, in compliance with the principles of natural justice as well as the ratio of the judgment of the Hon'ble Supreme Court in the case of GKN Drive Shafts (India) Ltd. V. Income Tax Officer (259 ITR 19) will issue notice to the petitioner, hear him, consider all/any materials that may be put forth and pass an order of re-assessment in accordance with law. It is made clear that all contentions are left open to be agitated by the petitioner, both on the aspect of jurisdiction as well as on the merits of the matter, that shall be dealt with by the officer.

7. This Writ Petition is allowed. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

/True Copy//

Sub Assistant Registrar

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To

1. The Deputy/Assistant Commissioner of Income Tax,
Central Circle – 1(2)
Income Tax Department,
108, Mahatma Gandhi Road,
Chennai – 600 034.

2. The Principal Commissioner of Income Tax (Central),
Chennai -1, Income Tax Department,
108, Mahatma Gandhi Road,
Chennai – 600 034.

+1cc to Mr.S.Sridhar, Advocate, S.R.No.33165
+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.33807

W.P.No.14193 of 2022
and
WMP Nos.13431, 13433 and 13435 of 2022

PMK[co]
NSK/16/06/2022