IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 06.06.2022
CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.Nos.12375 & 12381 of 2022 and
WMP.Nos.11824, 11826, 11827, 11828, 11839,
11840, 11843 & 11844 of 2022

Fifth Field Realtors P Ltd.,
(Rep. By its Director, Sarada Sundaramurthy)
1/1, TAS Enclave, 10th Main Road Extn.,
Shanthi Colony, Anna Nagar,
Chennai-600 040.
PAN: AAAFC9975C ...Petitioner in both WPs

Vs.

1.The Deputy Commissioner of Income Tax,
National Faceless Assessment Centre, Delhi,
E-Ramp, Jawaharlal Nehru Stadium,
Delhi-110 003.

2.The Income Tax Officer,
Corporate Ward-2(2), Chennai,
Income Tax Department,
121, Nungambakkam High Road,
Nungambakkam, Chennai-600 034.

3.The Principal Commissioner of Income Tax,
Chennai-1,
Income Tax Department,
121, Nungambakkam High Road,
Nungambakkam, Chennai-600 034. ...Respondents in both WPs

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, 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 30.03.2022 passed u/s. 260/144 r.w.s. 144B of the Act for the Assessment Years 2013-14 in ITBA/AST/S/147/2021-22/1042210317(1) and 2014-15 in ITBA/AST/S/147/2021-22/1042178450(1) respectively and consequently direct the First Respondent to complete the fresh assessment for the assessment years 2013-14 and 2014-15 after granting reasonable/ sufficient opportunity of hearing.

(In both WPs)
For Petitioner : Mr.S.Sridhar
For Respondents: Mrs.Hema Muralikrishnan
Senior Standing Counsel

COMMON ORDER

Heard Mr.S.Sridhar, learned counsel for the petitioner and Mrs.Hema Muralikrishnan, learned Senior Standing Counsel for the respondents.

2. The challenge is to two orders of assessment passed for the Assessment Years 2013-2014 and 2014-2015 both dated 30.03.2022 in terms of the Income Tax Act, 1961 (in short 'Act').

3. The facts in brief are that pursuant to returns of income filed by the petitioner, proceedings were taken up for finalization of assessments. The assessments, once completed, were the subject matter of challenge in W.P.Nos.23765 & 23783 of 2021, that came to be allowed and the impugned orders quashed.

4. At paragraph 8 of the order, my predecessor had directed the 1st respondent to pass a speaking order on merits and in accordance with law, preferably, within a period of 90 days from date of receipt of a copy of that order. The Department was directed to hear the petitioner prior thereto and consider any supporting material that the petitioner may chose to file.

5. Pursuant thereto, a notice was issued under Section 142 (1) on 17.02.2022. The main issue raised relates to the taxability of credits in the bank accounts of the petitioner. The matter was listed for hearing by video conference on 28.03.2022 and the petitioner had admittedly participated through counsel. In the course of hearing, learned counsel would submit that the petitioner had been permitted to submit a written submission with supporting evidences such as bank statements and was also granted two days to file cash flow statements.

6.The written submission along with various annexures came to be uploaded on the same date. However, it is the petitioner's case that when the cash flow statements were sought to be uploaded, the website had not permitted the same. Two representations have been filed on 29.03.2022 to this effect.

7.The question that now arises is as to the fate of the impugned assessments in light of the above admitted facts. No doubt, in this case, the petitioner has been heard by the respondent and the only question that arises is as to the sufficiency of opportunity to file the cash flow statements as well.

8.The fact that the site has been disabled has been communicated by the petitioner in its grievance petitions filed on 29.03.2022. However, the Assessing Authority would have no option to visit the portal qua the petitioner's page and view the grievances as the hearing of the appeal had, for all intents and purposes, been concluded on 28.03.2022 itself.

9.It is the say of the learned Senior Standing Counsel that once the proceedings have been concluded, there is no further necessity for the website to enable receipt or exchange of documents.

10.In the circumstances as aforesaid, I believe that it would serve to address the interests of both the parties to permit the petitioner to file a statutory appeal before the 1st Appellate Authority. Such appeal, if filed within a period of four (4) weeks from today, shall be taken on file by the 1st Appellate Authority without reference to limitation but subject to all other statutory compliances, if any.

11.The petitioner is permitted to support his appeal in any manner that if may desires including production of cash flow statements for which it has been denied an opportunity at the stage of assessment. Let the appeal, if and once filed, be disposed within a period of three (3) months from the date of institution thereof as aforesaid. There shall be no coercive proceedings for recovery taken for a period of three months from date of institution of appeal.

12.These Writ Petitions are disposed in the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vs/kbs
To

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National Faceless Assessment Centre, Delhi,
E-Ramp, Jawaharlal Nehru Stadium, Delhi-110 003.

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Chennai-1, Income Tax Department,
121, Nungambakkam High Road,
Nungambakkam, Chennai-600 034.

+1 cc to Mrs.Hema Muralikrishnan, Advocate Sr.NO. 32339
+2 ccs to Mr.Mr.S.Sridhar, Advocate Sr.NO. 32220,32221

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nk(CO)
A.SK(19/07/2022)