IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2022

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.31805 of 2019
and
W.M.P.Nos. 5133 of 2020 and 32042 to 32044 of 2019

M/s.Manoharamma Hotel Investments Private Limited
No.2, Sarangapani Street, T.Nagar,
Chennai – 600 017. ...Petitioner

Vs.

Income Tax Officer
Corporate Ward 4(1),
Chennai – 600 034. ...Respondent

Prayer:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent contained in its notice issued u/s.148 of the Income Tax Act, 1961, for PAN:AACCM8686M, for the assessment year 2014-15, Notice No.ITBA/AST/S/18/2018-19/1015452454(1), dated 27.03.2019 and all proceedings in furtherance thereof, including but not limited to the order letter No.ITBA/AST/F/17/2019-20/1018474132(1)dated 30.09.2019 passed by the Respondent disposing of the Petitioner's objections to the reopening of the income tax assessment for the assessment year 2014-15, and to quash the same as arbitrary, unjust and illegal and to consequently forbear the respondent from in any manner reassessing the petitioner's income u/s. 147 of the Income Tax Act, 1961 for the Assessment Year 2014-15.

For Petitioner : No appearance

For Respondent : Mrs.Hema Muralikrishnan
Senior Standing Counsel

ORDER

The identical facts and legal position that arises in the present Writ Petition has been considered by me in W.P.No.31790 of 2019, that was disposed on 26.07.2022. The only difference is, that Writ Petition related to assessment year 2013-14, whereas, the present Writ Petition relates to assessment year 2014-15.

2. The order passed on 26.07.2022 in W.P.No.31790 of 2019 reads thus:

Heard Mr.Suhrith Parhasarathy, learned Counsel for the petitioner and Mr.Prabhu Mukund Arun Kumar, learned Junior Standing Counsel for the respondents.

2. One of the primordial points advanced by the petitioner challenging order dated 30.09.2019 disposing the objections to assumptions to jurisdiction for reopening under Section 147 of the Income Tax Act, 1961 (in short 'Act') is that the 'reasons' on the basis of the reassessment has been effected, have not been supplied.

3. The procedure for re-assessment has been set out in the judgment of the Hon'ble Supreme Court in GKN Drive Shafts (India) Ltd. V. Income Tax Officer [2003](259 ITR 19)and the operative portion reads as under:-

" We see no justifiable reason to interfere with the order under challenge. However, we clarify that when a notice under Section 148 of the Income Tax Act is issue, the proper course of action for the noticee is to file return and if he so desires, to seek reasons for issuing notices. The assessing officer is bound to furnish reasons with a reasonable time. On receipt of reasons, the noticeee is entitled to file objections to issuance of

notice and the assessing officer is bound to dispose of the same by passing a speaking order. In the instant case, as the reasons have been disclosed in these proceedings, the assessing officer has to dispose of the objections, if filed, by passing a speaking order before proceeding with the assessment in respect of the above said five assessment years."

4. In response to the allegation of non-supplying of reasons, learned Junior Standing Counsel circulates a copy of the reasons along with an acknowledgment for avowed service of the same upon the petitioner. The acknowledgment contains an illegible scrawl purporting to be a signature and there is no name of the recipient mentioned thereunder. Learned Counsel, on instructions would maintain that no reasons have been received and would also point to subsequent communications exchanged where the petitioner had reiterated the same complaint.

5. In the light of the aforesaid positionI think it appropriate, in the interests of substantial justice, to permit the proceedings for reassessment to resume from the stage of supply of reasons,that stands satisfied now. The petitioner is permitted to respond to the reasons dated 23.04.2019 if so inclined, on the aspect of assumption of jurisdiction within a period of four (4) weeks from the date of receipt of copy of this order.

6. Upon receipt of the objections, the petitioner shall be heard and a speaking order of disposing the objections shall be passed. An order of assessment to be thereafter. The entirety of the exercise shall not exceed twelve (12) weeks from date of issue of a copy of this order. Impugned order dated 30.09.2019 disposing the objections, in light of the above directions is set aside.

7. These writ petitions stand disposed in the above terms. Connected writ miscellaneous petitions are closed. No costs.

3. In light of the complete identity in facts and legal position, the same order is taken to be passed in the present matter as well.

DR.ANITA SUMANTH,J.

4. This Writ Petition is disposed as above. No costs. Connected Miscellaneous Petitions are closed.

5. There is a typographical error in order dated 26.07.2022, in that, though the prayer and the body of the order relate only to W.P.No.31790 of 2019, the number of the present Writ Petition has been included therein as well.

22.11.2022

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Index : Yes/No
Speaking Order/Non speaking Order

To
Income Tax Officer
Corporate Ward 4(1),
Chennai – 600 034.

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