IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2023

CORAM :

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

W.P.No.3144 of 2020
and
W.M.P.Nos.3653 and 3656 of 2020

RK-IMAY Property Developers Private Limited,
Represented by its Director D Prem,
Having office at 69, Karumarampalayam,
Uthukuli Road, Tirupur – 641 607.
Tamil Nadu, India. ... Petitioner

Vs.

The Assistant Commissioner of Income Tax,
Office of the Assistant Commissioner of Income Tax,
Circle 1, Adams Plaza,
60 Feet Road, Tirupur. ... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the respondent pertaining to the assessment order No.ITBA/AST/S/143(3)/2019-20/1023347246(1) dated 28.12.2019 quash the same and the consequential demand notice dated 28.12.2019, issued under Section 156 of the Income Tax Act, 1961.

For Petitioner : M/s.Akhil Bhansali

For Respondent : Mr.R.S.Balaji
Senior Standing Counsel

ORDER

The petitioner is aggrieved by the impugned Assessment order dated 28.12.2019 for the Assessment Year 2017-2018. Assessment has been completed after a long string of communications exchanged between the petitioner and the Income Tax Department. A date of hearing was also fixed from time to time. The impugned order dated 28.12.2019 precedes a notice dated 27.12.2019 wherein the claim of the petitioner that the petitioner had received amounts from PGC Corporation Limited, Tirupur was untrue and therefore the petitioner was called upon to furnish a reply by 27.12.2019.

2.Apart from the above, the petitioner was also called upon to furnish a reply as to why there was a difference between the guidelines value of the property and the sale consideration of Rs.7,78,600/-. The petitioner appears to have also partly complied with the reply on the same day by furnishing a reply dated 27.12.2019. However, on the next day, the impugned order has been passed without giving an adequate opportunity of hearing to the petitioner.

3.The learned Senior Standing counsel for the respondent defends the impugned order stating that the impugned order is well reasoned and requires no interference. That apart, it is submitted that the petitioner was given an opportunity on several occasions vide notice dated 24.08.2018, 12.10.2018 and 21.11.2019. Since the petitioner has failed to give the information, as called for by an letter dated 27.12.2019, the impugned order was passed.

4.I have considered the arguments advanced by the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondent. I have also perused the impugned order dated 28.12.2019 which preceded a notice dated 27.12.2019. I have also perused the counter filed on behalf of the respondent.

5.*Prima facie*, it appears that the impugned order has been passed without giving an adequate opportunity to the petitioner of being heard. Considering the above, the impugned order is set aside and the case is remitted back to the respondent to pass a speaking order within a period of 60 days from the date of receipt of a copy of this order. The petitioner shall file a reply if any within a period of 30 days from the date of receipt of a copy of this order. Needless to state, before passing order in Denovo proceedings, the respondent shall provide an opportunity of being heard to the petitioner.

6.This writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

03.07.2023
(2/2)

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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To

The Assistant Commissioner of Income Tax,
Office of the Assistant Commissioner of Income Tax,
Circle 1, Adams Plaza,
60 Feet Road, Tirupur.

C.SARAVANAN, J.

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