IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2023

CORAM

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

W.P.No.15649 of 2021
and
W.M.P.Nos.16549, 16554 & 16556 of 2021

M/s.Akshaya Signature Homes Private Limited,
Represented by its Director T.Chitti Babu ... Petitioner

Vs

1. The Assistant Commissioner of Income Tax,
National e-Assessment Centre, Delhi,
Room No.401, 2nd Floor,
E-Ramp, Jawaharlal Nehru Stadium,
Delhi – 110 003.

2. The Deputy Commissioner of Income Tax,
Corporate Circle – 1(1), 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

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of 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 30.04.2021 passed under Section 143(3) r.w.s 144B of the Act for the Assessment Year 2018-2019 in ITBA/AST/S/143(3)/2021-22/1032749065(1) and consequently direct the first respondent to complete the fresh assessment for the assessment year 2018-2019 after granting reasonable/sufficient opportunity of hearing.

For Petitioner : Mr.A.S.Sriraman

For Respondents : Mr.D.Prabhu Mukunth Arunkumar
Junior Standing Counsel

ORDER

The petitioner has challenged the Impugned Assessment Order dated 30.04.2021 and the consequential demand notice issued under Section 156 of the Income Tax Act, 1961 on the same date.

2. In this writ petition the petitioner has challenged the Impugned Assessment Order dated 30.04.2021 and the consequential demand notice dated 30.04.2022 under Section 156 of the Income Tax Act, 1961, on the ground that it has been passed without following the principles of

natural justice in as much as neither a Show Cause Notice was issued to the petitioner nor a notice for personal hearing was issued to the petitioner nor the petitioner was heard by the respondents before the impugned order was passed.

3. The respondents in their counter have stated as follows:-

> *"It is submitted from the above, it is clear that the petitioner was heard on 16.04.2021 and draft assessment order sent by the Assessment Unit to the 1st respondent herein. The 1st respondent herein had forwarded the Draft Assessment Order to the Review Unit and the Review Unit had approved the Draft Assessment Order and the same was pending for signature by the 1st respondent herein for service on the petitioner herein.* ***However, due to some technical glitches, the Draft Assessment Order was sent by the 1st respondent to the Assessment Unit along with the Review Report and the Assessment Unit prepared the Final assessment order u/s.143(3) and forwarded the same to the 1st respondent.*** *Therefore computation sheet, demand notice u/s.156 were generated and notice for penalty also issued.* ***It is submitted that there was absolutely no intention on the part of the respondents to pass a Final Assessment Order and deny the petitioner a chance to respond to the Show Cause Notice cum draft assessment order. It is only due to inadvertence, for which the respondents most sincerely apologize that instead of sending the draft assessment order to the petitioner herein and seeking its response, the same was inadvertently sent to the assessment unit***

and due to this mistake, the further mistakes of generation of computation sheet, issuance of notice u/s.56 and issuance of notice for penalty also occurred."

4. It thus stands confirmed that the order has been passed without following the principles of natural justice and without issuing a Show Cause Notice/Draft Assessment Order to the petitioner although it was only on account of inadvertent mistake on the part of the respondents when still faceless assessment was still at its infancy.

5. Considering the above, the Impugned Order is set aside and the case is remitted back to the first respondent to pass a fresh order on merits and in accordance with law after due compliance with the procedures required under the provisions of the Income Tax Act and the Rules made there under.

6. This exercise shall be carried out by the respondent within a period of twelve (12) weeks from the date of receipt of a copy of this order. The Impugned Order which stands quashed shall be treated as the Draft Assessment Order. The petitioner may file additional

reply/representation within a period of thirty (30) days from the date of receipt of a copy of this order. The respondents shall make suitable provisions in their portal for the petitioner to file the reply within such time.

7. The writ petition stands allowed with the above observations and directions. No cost. Consequently connected miscellaneous petitions are closed.

17.07.2023

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

C.SARAVANAN, J.

rgm

To

1. The Assistant Commissioner of Income Tax,
   National e-Assessment Centre, Delhi,
   Room No.401, 2nd Floor,
   E-Ramp, Jawaharlal Nehru Stadium,
   Delhi – 110 003.

2. The Deputy Commissioner of Income Tax,
   Corporate Circle – 1(1), 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.

W.P.No.15649 of 2021
and
W.M.P.Nos.16549, 16554 & 16556 of 2021