IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2023

CORAM :

The HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. Nos.16661 and 16664 of 2022 and
W.M.P. Nos.15947, 15948, 15950 and 15951 of 2023

KPL Assets LLP,
represented by its Partner
NKV Krishna ... Petitioner in both W.P.s

vs

Assistant Commissioner of Income Tax,
DC/AC Central CIR 1(2),
3rd Floor, Investigation Building,
N.46 (Old No.108),
Mahatma Gandhi Road,
Chennai – 600 034. ... Respondent in both W.P.s

Prayer in W.P. No.16661 of 2022: Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari to call for the records of the respondent with regard to the impugned assessment order dated 30.05.2022 passed under Section 153A against the petitioner for the assessment year 2019-20 bearing DIN in Order No.ITBA/AST/S/153A/2022-23/1043257600(1) and quash the same.

Prayer in W.P. No.16664 of 2022: Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari to call for the records of the respondent with regard to the impugned assessment order dated 30.05.2022 passed under Section 143(3) as against the petitioner for the assessment year 2020-21 bearing DIN in Order No.ITBA/AST/S/143(3)/2022-23/1043257665(1) and quash the same.

For Petitioner in both W.P.s : Mr.V.P.Raman for
Mr.Anirudh A Sriram

For Respondent in both W.P.s: Mr.A.P.Srinivas,
Standing Counsel

COMMON ORDER

These writ petitions have been filed challenging the impugned assessment orders both dated 30.05.2022 in respect of the assessment years 2019-20 and 2020-21.

2.The petitioner has challenged the impugned assessment orders on the ground of violation of the principles of natural justice. A Show Cause Notice was received by the petitioner from the respondent on 10.05.2022 under Section 143(3) of the Income Tax Act. Under the Show Cause Notice, the petitioner was directed to submit the details and produce the documents mentioned therein and the petitioner was also directed to submit a reply on or before 17.05.2022. The petitioner submitted a reply on 17.05.2022 to the Show Cause Notice issued by the respondent dated 10.05.2022. Under the said reply, the petitioner has stated that since the documents/records sought for by the respondent in the Show Cause

Notice are voluminous in nature, they have sought for two weeks time to furnish the required details as per the Show Cause notice. However, according to the petitioner, even without waiting for the documents to be submitted by the petitioner for which they have sought for two weeks time, the impugned assessment orders dated 30.05.2022 in respect of the above two assessment orders have been passed, which are the subject matters of challenge in these writ petitions.

3.Learned counsel for the petitioner drew the attention of this Court to the Show Cause Notice dated 10.05.2022 issued under Section 143(3) of the Income Tax Act as well as to the reply dated 17.05.2022 sent by the petitioner to the said Show Cause Notice. He also drew the attention of this Court to the impugned assessment orders both dated 30.05.2022 and would submit that under the impugned assessment orders, no reason has been given by the respondent as to why the reply sent by the petitioner on 17.05.2022 requesting for two weeks time to furnish details and documents sought for by the respondent under the Show Cause Notice dated 10.05.2022 was not considered by the respondent.

4.A counter affidavit has been filed by the respondent denying the contentions of the petitioner and they would submit that since the assessment orders will have to be passed on or before 31.05.2022 being the period of limitation prescribed under Section 153(B) of the Income Tax Act, the respondent had to pass the impugned assessment orders on 31.05.2022. He would also submit that two weeks time was granted to the petitioner from the date of reply i.e. on 17.05.2022 and only thereafter, the impugned assessment orders dated 31.05.2022 have been passed. Therefore, he would submit that without exercising the statutory appellate remedy available to the petitioner if aggrieved by the impugned assessment orders, they have filed these writ petitions, which are not maintainable.

5.The contention of the learned Standing Counsel appearing for the respondent with regard to the limitation is disputed by the learned counsel for the petitioner, which is also reflected in the affidavit filed in support of these writ petitions. According to the petitioner, the limitation for passing the assessment orders will end only on 30.09.2022.

6.Admittedly, as seen from the impugned assessment orders, the reason for rejection of the petitioner's request in his reply dated 17.05.2022 seeking two weeks time to furnish the particulars/documents sought for by the respondent in their Show Cause Notice dated 10.05.2022 has not been considered by the respondent. If the petitioner was informed by the respondent that they are rejecting the petitioner's request for further time to furnish the particulars as sought for in the Show Cause Notice dated 10.05.2022, the petitioner would have been in a position to take further steps with regard to the decision taken by the respondent rejecting the petitioner's request seeking time to submit the particulars.

7.Having not been informed and that too when the impugned assessment orders do not give reasons as to why the respondent has not granted time despite a specific request having been made by the petitioner in their reply dated 17.05.2022, this Court is of the considered view that principles of natural justice has been violated by the respondent. Further before this Court, the petitioner has also submitted with the respondents the documents sought for in the Show Cause Notices dated 10.05.2022 on 08.07.2022. The said documents were also handed over to the learned

Standing Counsel appearing for the respondent on 08.07.2022 by the learned counsel for the petitioner. Since the documents have already been given by the petitioner to the respondent during the pendency of these writ petitions, no prejudice would be caused if the assessments are redone in respect of the assessment years 2019-20 and 2020-21.

8.However, it is made clear that apart from documents produced by the petitioner before this Court which according to the petitioner has satisfied the requirements of the respondent as per their Show Cause Notice dated 10.05.2022, the petitioner cannot furnish any further documents before the respondent and cannot protract the proceedings once the assessments are redone by the respondent pursuant to the directions given by this Court today. Since the reply dated 17.05.2022 sent by the petitioner to the Show Cause Notice dated 10.05.2022 has not been considered in the impugned assessment orders and that too when the petitioner categorically contends that the limitation for passing the assessment orders will expire only on 30.09.2022, this Court is of the considered view that principles of natural justice has been violated and therefore, the impugned assessment orders have to be quashed and the matters have to be remanded back to the respondent for fresh consideration, on merits and in accordance in law within a time frame to be fixed by this Court.

9.For the foregoing reasons, the impugned assessment orders dated 30.05.2022 in respect of the assessment years 2019-20 and 2020-21 are hereby quashed and the matters are remanded back to the respondent for fresh consideration, on merits and in accordance with law. The respondent is directed to pass final orders, on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order, after adhering to the principles of natural justice, including the grant of personal hearing to the petitioner's authorised representative.

10.It is made clear that this Court does not permit the petitioner to submit any further documents apart from the documents, which are already furnished by the petitioner to the respondent during the pendency of these writ petitions on 08.07.2022 and the petitioner shall co-operate with the proceedings and they shall not protract the same.

ABDUL QUDDHOSE, J.

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11.With the aforesaid directions, these writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

16.02.2023

Index:Yes/No
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To

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