IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.25632 of 2022
and
W.M.P.Nos.24619 and 24621 of 2022
and W.M.P.No.19206 of 2023

Vijaya Bank Workers Cooperative Thrift
and Credit Society Limited,
Represented by its President
S.D.Srinivasan,
No.60/2, Big Street,
Triplicane,
Chennai - 600 005. ... Petitioner

Vs.

Assessment Unit,
Income Tax Department,
National Faceless Assessment Circle,
Ministry of Finance, Delhi. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records contained in order dated 06.09.2022 passed by the respondent for the Assessment Year 2020-2021 for PAN : AABAV5811A bearing ITBA/AST/S/143(3)/2022-2023/1045218955(1) and to quash the same as illegal, arbitrary and unjust, and to consequentially direct the respondent to permit the petitioner to file a reply to Show Cause Notice dated 25.03.2022 and to grant the petitioner an opportunity of oral hearing before proceeding to pass any assessment order under Section 143(3) of the Income Tax Act, 1961.

For Petitioner : Mr.Suhrith Parthasarathy

For Respondent : Mr.Prabhu Mukunth Arun Kumar
Junior Standing Counsel

ORDER

The petitioner is aggrieved by the impugned Assessment Order dated 06.09.2022 of the respondent bearing DIN No.ITBA/AST/S/143(3)/2022-2023/1045218955(1) for the Assessment Year 2020-2021.

2. The impugned Assessment Order precedes a Show Cause Notice dated 25.03.2022 and other three notices dated 05.11.2021, 23.11.2021 and 30.12.2021 under Section 142(1) of the Income Tax Act, 1961 (hereinafter referred to as the IT Act).

3. The petitioner has replied to the three notices mentioned above issued under Section 142(1) of the IT Act on 20.01.2022.

4. Specifically, the petitioner has also asked question regarding the basis for informations contained in Sl.Nos.3 and 4 to Annexure to notice dated 30.12.2021.

5. There has been no direct reply to the same by the Department. However, the Department proceeded to issue a Show Cause Notice on 25.03.2022 ostensibly complying with the procedure prescribed under Section 144B of the IT Act. The time stipulated to respond to the Show Cause Notice was on 28.03.2022. The petitioner could not respond to the same.

6. According to the petitioner, after 28.03.2022, the web portal was closed and therefore, the petitioner could not file any reply within the time stipulated in the Show Cause Notice dated 25.03.2022 and thereafter, the respondent has passed the impugned Assessment Order on 06.09.2022 confirming the proposals contained in the Show Cause Notice dated 25.03.2022.

7. This Writ Petition is opposed by the learned Junior Standing Counsel for the respondent primarily on the ground that the petitioner has an alternate remedy before the Appellate Commissioner.

8. That apart, the learned Junior Standing Counsel for the respondent would submit that nothing precluded the petitioner from asking/for seeking extension of time to respond to the Show Cause Notice dated 25.03.2022.

9. It is therefore submitted that under these circumstances, the impugned Assessment Order has been passed on 06.09.2022.

10. That apart, it is submitted that with the implementation of faceless assessment, the assessment has to be completed in a time bound manner and it is for the assessee to apply for time and in this case, no time was sought for and therefore, the assessment had been completed in time.

11. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Junior Standing Counsel for the respondent.

12. The impugned Assessment Order precedes a Show Cause Notice dated 25.03.2022, which also contains the Draft Assessment Order.

13. The time given for the petitioner to respond to the Show Cause Notice was minimal and thus, the petitioner could not respond to the same and thereafter, the web portal was closed and as a result of which, the petitioner could not participate in the impugned Assessment Proceedings, which has culminated in the impugned Assessment Order dated 06.09.2022.

14. Considering the above, the impugned Assessment Order is set aside and the case is remitted back to the respondent to pass a fresh order *de novo* on merits and in accordance with law within a period of six months from the date of receipt of a copy of this order.

15. The impugned Assessment Order which stands quashed shall be treated as a *corrigenda* to the Show Cause Notice dated 25.03.2022.

16. The respondent shall give a date to the petitioner to respond to the same. However, it is made clear that the petitioner shall get ready with the

reply and be ready to upload the informations in the web portal as and when the web portal is open.

17. The respondent is directed to enable the web portal to receive the reply of the petitioner.

18. The assessment shall thereafter completed strictly in accordance with the procedure prescribed under Section 144B of the IT Act as expeditiously as possible, preferably, within a period of six months from the date of receipt of a copy of this order.

19. This Writ Petition stands disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

12.09.2023
(1/2)

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

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To

Assessment Unit,
Income Tax Department,
National Faceless Assessment Circle,
Ministry of Finance, Delhi.

C.SARAVANAN, J.

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