IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2024

CORAM :

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.2609 of 2022
and W.M.P.Nos.2755, 2757 and 2761 of 2022

M/s.SSPV Construction Consortium
(Represented by its partner)
H1, Lumiers Enclave,
Giri Nagar, Ramapuram,
Chennai-600 089,
PAN:ABVFS9093F …Petitioner

-Vs-

1.The Deputy Commissioner of Income Tax,
National Faceless Assessment Centre, Delhi,
E-Ramp, Jawaharlal Nehru Stadium,
Delhi-110 003.

2.The Deputy Commissioner of Income Tax,
Non Corporate Circle - 8(1),
Income Tax Department,
121, Nungambakkam High Road,
Chennai-600034.

3.The Principal Commissioner of Income Tax,
Chennai-4,
Income Tax Department,
121, Nungambakkam High Road,
Chennai-600034. …Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records of the Writ petitioner partnership firm/Assessee on the file of the first respondent to quash the impugned order dated 21.09.2021 passed u/s 147/144 read with Section 144B of the Income Tax Act, 1961 for the assessment year 2013-14 in DIN and Order No.ITBA/AST/S/147/2021-22/1035755572(1).

For Petitioner : Mr.A.S.Sriraman

For Respondent : Mr.V.Mahalingam
Senior Standing Counsel

ORDER

A re-assessment order dated 21.09.2021 and proceedings pursuant thereto are challenged by the petitioner. After the original assessment order for assessment year 2013-2014 was issued on 21.03.2016, the petitioner states that re-assessment proceedings were initiated under the then prevailing legal regime by issuing a notice under Section 148 of Income Tax Act, 1961 (hereinafter referred to as the 'Act') on 24.12.2019. The petitioner replied to the notice issued under Section 142 (1) of the Act on 16.04.2021. Learned counsel for the petitioner submits that all subsequent communications were issued to an email address, which was not being used by the petitioner's accountant and, therefore, the petitioner did not receive the notices and could not reply thereto. Eventually, upon receipt of the show cause notice dated 22.10.2021, which was dispatched to the petitioner by post, it is stated that the present Writ Petition was filed. Learned counsel urges that the petitioner be provided an opportunity to contest the proceedings.

2. In response to these submissions, learned Senior Standing Counsel for the respondents submits that the petitioner did not respond to several notices issued to the original e-mail ID, eccaccts@gmail.com. Therefore, the ID provided by the petitioner in the portal of the Income Tax Department was used for issuing notices to the petitioner. By referring to Section 144 B of the Act, learned Senior Standing Counsel submits that it enables the issuance of notices and proceedings by posting the same on the portal provided it is accompanied by an e-mail to the registered e-mail ID. Since the statutory requirement was complied with, learned Senior Standing Counsel submits that no interference is called for.

3. The documents on record reveal that the petitioner replied to the notice issued under Section 148 of the Act on 23.01.2020. The petitioner also replied to the notice dated 15.04.2021 under Section 142 (1) of the Act. These notices were

issued to the petitioner at the following e-mail address: eccaccts@gmail.com. The subsequent e-mails, including the e-mail issued on 21.04.2021, were issued to the following address: admin.chennai@rands.in. It should also be noticed that these communications were issued during the second wave of the Covid-19 pandemic.

4. The impugned re-assessment order came to be issued in the above facts and circumstances without hearing the petitioner. Therefore, the impugned re-assessment order and proceedings consequential thereto call for interference.

5. For reasons set out above, the impugned re-assessment order dated 21.09.2021 and the demand notices issued pursuant thereto are quashed. As a corollary, the matter is remanded for re-consideration. The petitioner is permitted to issue a response both in relation to the disposal of the petitioner's objections on 16.08.2021 and to the show cause notice dated 15.09.2021. Such consolidated response shall be submitted within (2) two weeks from the date of receipt of a copy of this order. For such purpose, the respondents are directed to enable the portal and provide access to the petitioner. Upon receipt of the petitioner's

response, the assessing officer is directed to provide a reasonable opportunity, including a personal hearing, and thereafter, issue a fresh assessment order within (3) three months from the date of receipt of the petitioner's reply.

6. With the above observations and directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

06.02.2024

Index : Yes/No
Internet : Yes
Anu

To
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SENTHILKUMAR RAMAMOORTHY, J.

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