IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.10554 of 2024 and
W.M.P.Nos.11580, 11581, 11583 & 11584 of 2024

General Commercial Agencies,
Represented by Partner,
No.144/1, Sathak Centre Annexure,
Nungambakkam High Road,
Chennai-600 034.
PAN:AAAFG1970H ...Petitioner

Vs.

1. The Assessment Unit,
Income Tax Department,
National e-Assessment Centre,
Delhi E-Ramp, Jawaharlal Nehru Stadium,
Delhi-110 003.

2. The Assistant Commissioner of Income Tax
Non-Corporate Circle 3(1), Chennai,
Income Tax Department,
No.121, Nungambakkam High Road,
Chennai-600 034.

3.The Principal Commissioner of Income Tax-4
Chennai,
Income Tax Department,
No.121, Nungambakkam High Road,
Chennai-600 034. .. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the writ petitioner on the file of the 1st respondent to quash the impugned order under Section 147 read with Section 144B of the Income Tax Act, 1961 dated 26.03.2024 in DIN:ITBA/AST/S/147/2023-2024/1063401476(1) for the Assessment Year 2019-2010.

For Petitioner : Mr.A.S.Sriraman

For Respondents : Mrs.S.Premalatha,
Junior Standing Counsel

ORDER

An assessment order dated 23.03.2023 pertaining to assessment year 2018-2019 is the subject of challenge in this writ petition.

2. In respect of the above mentioned assessment year, reassessment proceedings were initiated against the petitioner. After issuing notices under Sections 143(2) and 142(1) of the Income Tax Act, 1961 (the Income Tax Act), show cause notice dated 13.03.2024 was issued to the petitioner calling upon the petitioner to reply thereto on or before 16.03.2024. The petitioner replied to such show cause notice stating that further time is required to respond to the proposal with regard to adding

all credits in the bank statement. In response, extension of time was granted up to 19.03.2024. The petitioner requested for further time. Such request was not considered. Instead, the impugned assessment order was issued on 26.03.2024.

3. Learned counsel for the petitioner invited my attention to the petitioner's reply to the show cause notice. He pointed out that the proposed variation in relation to the credits in the bank statement of the petitioner was made for the first time in show cause notice dated 13.03.2024. He further submitted that the time provided for responding thereto was insufficient. He also pointed out that the communication dated 20.03.2024 adjourning the case to 21.03.2024 was digitally signed after 11.00 p.m. on 20.03.2024. Therefore, he makes a request that the petitioner be provided an opportunity to respond effectively to the show cause notice.

4. Mrs.S.Premalatha, learned junior standing counsel, accepts notice for the respondents. By referring to the details of opportunities given to the petitioner, she points out that pursuant to notice under Section 148, notices were issued under Sections 143(2) and 142(1) in

November 2023. Therefore, she contends that the petitioner was not prejudiced by the limited time provided to respond to the show cause notice dated 13.03.2024.

5. On perusal of show cause notice dated 13.03.2024, it is evident that such notice deals with aggregate credit entries of Rs.9,50,80,259/- in the petitioner's bank statement and the proposal to treat this aggregate sum as unexplained money under Section 69A read with 115BBE of the Income Tax Act. On perusal of earlier notices under Sections 143(2) and 142(1), this issue was not raised in such notices. In these circumstances, it was necessary to provide a reasonable time to the petitioner to respond to the show cause notice. The show cause notice granted three days originally and this time limit was extended by a further three days. Since sufficient time was not given to the petitioner to respond meaningfully to the show cause notice, the impugned assessment order calls for interference.

6. For reasons set out above, the impugned assessment order dated 23.03.2023 is set aside and the matter is remanded for reconsideration. The petitioner shall reply to the show cause notice within a maximum

period of two weeks from the date of receipt of a copy of this order by enclosing all relevant documents. Upon receipt thereof, the 1st respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing through video-conference, and thereafter issue a fresh assessment order within a period of four months from the date of receipt of the petitioner's reply. In order to enable the petitioner to upload the reply to the show cause notice, the respondents are directed to provide necessary access to the portal.

7. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

22.04.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

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SENTHILKUMAR RAMAMOORTHY,J.

Kj

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