IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **12.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.14290 of 2024
and W.M.P.Nos.15514 & 15515 of 2024

M/s.Classic Trading Company
Through Proprietor Abdul Kabeer Faiz Ahamed
316-C, Arcot Road, Kodambakkam,
Kodambakkam S.O
Chennai – 600 024. ... Petitioner

-vs-

The Assessment Unit,
National Faceless Assessment Centre,
Income Tax Department,
Mayur Bhawan, Connaught Lane,
Barakhamba, New Delhi 110 001. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the file of the respondent in impugned assessment order bearing DIN No.ITBA/AST/S/144/2023-24/1062797913(1) issued by the respondent under Section 144 r/w 144B of the Income Tax Act, dated 17.03.2024 and quash the same as illegal, in violations of principles of natural justice and contrary to the provision of the law.

For Petitioner : Ms.Anu Viswanath
for Mr.K.Senguttuvan

For Respondent : Mrs.S.Premalatha, Jr. SC

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ORDER

An assessment order dated 17.03.2024 in respect of assessment year 2022-23 is assailed on the ground of breach of principles of natural justice. The petitioner received notice dated 02.06.2023 under Section 143(2) of the Income Tax Act, 1961. Such notice was not replied to. Thereafter, notices under sub-section (1) of Section 142 were issued to the petitioner. While the petitioner replied to notice dated 28.08.2023, subsequent notices were not replied to. After issuing show cause notice dated 14.03.2024, the impugned assessment order was issued on 17.03.2024.

2. Learned counsel for the petitioner invited my attention to show cause notice dated 14.03.2024 and pointed out that the petitioner was given time only until 16.03.2024 to reply to such show cause notice. She also submits that such show cause notice was only uploaded on the portal and not communicated through any other mode. In this connection, she relies on standard operation procedure (SOP) in such cases, which was issued by the National Faceless Assessment Centre on 03.08.2022. On merits, she submits that expenses claimed by the petitioner were disallowed merely because some of the suppliers were found to be non existant by the GST Department. Since the petitioner was not provided a reasonable opportunity to contest the tax proposal on merits, she contends that the matter requires re-consideration.

3. Mrs.S.Premalatha, learned junior standing counsel, accepts notice for the respondent. She points out that the petitioner failed to

respond to most of the notices issued to him. Except for the notice dated 28.08.2023, she submits that the other notices referred to in the assessment order at paragraph 2 were not replied to. In these circumstances, she submits that no interference is warranted.

4. The notices under Section 142(1) are notices requesting for documents or information in the course of inquiry. On the basis that the petitioner did not reply to such notices, the petitioner cannot be denied an opportunity to respond to the show cause notice issued on being dissatisfied with the explanation of the petitioner in course of inquiry. In this case, the undisputed position is that the show cause notice is dated 14.03.2024 and such show cause notice granted the petitioner merely two days' time to respond thereto. This time limit is not reasonable. The petitioner also asserts that he was unaware of such show cause notice because it was only uploaded on the portal. For such reason, the impugned order is liable to be interfered with. However, the petitioner has requested for discretionary relief after failing to respond to multiple notices. Therefore, the petitioner is

liable for costs.

5. For reasons aforesaid, impugned assessment order dated 17.03.2024 is set aside on condition that the petitioner remits a sum of Rs.10,000/- as costs to the Tamil Nadu State Legal Services Authority within ***two weeks*** from the date of receipt of a copy of this order. The petitioner is permitted to submit a reply to show cause notice dated 14.03.2024 within the aforesaid ***two weeks***. To enable the same, the respondent is directed to provide access to the portal. Upon receipt of the petitioner's reply, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing by video conference, and thereafter issue a fresh order within ***three months*** from the date of receipt of the petitioner's reply.

6. W.P.No.14290 of 2024 is disposed of on the above terms. Consequently, W.M.P.No.15514 and 15515 of 2024 are closed.

12.06.2024

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

To

The Assessment Unit,
National Faceless Assessment Centre,
Income Tax Department,
Mayur Bhawan, Connaught Lane,
Barakhamba, New Delhi 110 001.

SENTHILKUMAR RAMAMOORTHY,J

rna

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