IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.03.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.16507 of 2021

M/s.Pallazzio Energy Farms LLP,
48, Attoram Street,
Salem-636 001, Tamil Nadu. ... Petitioner

Vs.

1.Principal Commissioner of Income Tax,
Race Course Road, Coimbatore-641 018.

2.Deputy Commissioner of Income Tax,
Race Course Road, Coimbatore-641 018. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records on the file of the Respondent in passing the impugned order no:ITBA/REV/F/REV7/2020-21/1031951505(1) for AY 2018-19 passed by the first Respondent under Section 264 of the Income Tax Act, 1961 dated 30.03.2021, quash the same as illegal, arbitrary and direct the First Respondent to rehear the petitioner, after giving the petitioner an effective opportunity of being heard.

For Petitioner : Ms.N.V.Lakshmi

For Respondents : Mrs.S.Premalatha
Junior Standing Counsel

ORDER

In this writ petition, the impugned order dated 30.03.2021 made under Section 264 of the Income Tax Act, 1961, (hereinafter referred to as "the Act") by the 1st Respondent is challenged on the limited ground that the same has been made without granting adequate/ reasonable opportunity to the petitioner.

2. It was submitted that two notices dated 21.10.2020 and 24.12.2020 were issued calling upon the petitioner to appear in person or to reply by e-mail on 22.10.2020 and 06.01.2021. It is submitted by the learned counsel for the petitioner that the first notice was not even served on the petitioner while the second notice was served on the petitioner and the assessment was being handled by a Chartered Accountant (Senior Citizen), he was unable to appear in person or reply because of the Covid-19 pandemic, as he was advised not to travel during the relevant period. In this regard, a medical

report was also submitted which would show that he suffered from co-morbidities and thus unable to travel. The relevant portions of the same is extracted hereunder:

> *"This is to certify that, based on the medical reports of G.Kuppusamy Naidu Memorial Hospital, Coimbatore, that Mr.V.Sridharan underwent coronary angiogram for significant single vessel disease-moderate to severe left ventricular dysfunction on 05.05.2015. He is advised medication for life time.*
>
> *He had a telephonic consultation with me about travelling to Coimbatore for a professional work during first week of January 2021. Being a senior citizen, considering his medical history, prevailing Covid pandemic throughout the country and absence vaccination for the pandemic then he was advice not to travel till covid situation improves. "*

2.1. Therefore, it is submitted that they may be granted an opportunity to appear before the 1st Respondent to submit their objections. To which, the learned counsel for the Respondents do not have any serious objections.

3. In view thereof, the matter is remanded back to the Respondents to re-do the assessment after granting the petitioner a reasonable opportunity within a period of 12 weeks from the date of receipt of a copy of this order, in accordance with law. The writ petition stands disposed of. No costs.

05.03.2024

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
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To:
1.Principal Commissioner of Income Tax,
Race Course Road, Coimbatore-641 018.

2.Deputy Commissioner of Income Tax,
Race Course Road, Coimbatore-641 018.

MOHAMMED SHAFFIQ, J.

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