IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **03.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.15949 of 2024
and W.M.P.Nos.17415, 17426 & 17427 of 2024

Gudiyatham Muniraj Ashokkumaran
No.140, Gandhi Road, Nadupet,
Vellore, Tamilnadu – 632 602.
PAN: AQXPA0744L ... Petitioner

-vs-

1.The Assistant Commissioner of Income Tax
Central Circle 1(1), Chennai
Income Tax Department
No.108, Nungambakkam High Road,
Chennai 600 034.

2.The Principal Commissioner of Income Tax
Central – 1, Chennai
Income Tax Department,
No.108, Nungambakkam High Road,
Chennai 600 034. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records of the writ petitioner on the file of the 1st respondent to quash the impugned order u/s 147 of the Income Tax Act, 1961 dated 29.03.2024 in DIN & Order No: ITBA/AST/S/147/2023-24/1063649517(1) for the Assessment Year 2015-16.

For Petitioner : Mr.A.S.Sriraman

For Respondents : Mr.A.P.Srinivas, Sr. SC

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ORDER

In this writ petition, an assessment order relating to assessment year 2015-16 is challenged on the ground of breach of principles of natural justice. The petitioner filed the return of income for the above mentioned assessment year on 24.03.2018. Re-assessment proceedings were initiated by issuing notice under Section 148.

Pursuant thereto, the petitioner is filed the return of income on 12.07.2023. Thereafter, a notice under Section 143(2) and a notice under Section 142(1) were issued to the petitioner. By these notices, the petitioner was called upon to submit documents in relation to the return of income. The petitioner filed responses on 15.02.2024, 08.03.2024 and 14.03.2024. This was followed by show cause notice dated 24.03.2024 calling upon the petitioner to show cause as to why an aggregate sum of Rs.79,08,458/- should not be added to the total income. The said show cause notice called for a reply from the petitioner on or before 26.03.2024. The impugned assessment order was issued on 29.03.2024.

2. Learned counsel for the petitioner referred to the above mentioned sequence of events and contended that the petitioner was granted only two days' time to respond to the show cause notice. Since the time provided was unreasonable, he submits that the petitioner was unable to respond. Consequently, he seeks another opportunity to reply to the show cause notice.

3. Mr.A.P.Srinivas, learned senior standing counsel, accepts notice for the respondents. Unlike proceedings under indirect tax laws, he submits that re-assessment proceedings are initiated by issuing notice under Section 148. Once the assessee files the return of income in response thereto, he submits that it is incumbent on the assessee to provide a satisfactory explanation with regard to such return of income. He also submits that the show cause notice does not have the significance attached thereto in proceedings under indirect tax laws.

4. On examining the notices under Section 143(2) and 142(1), it is clear that the petitioner was called upon to clarify issues in relation to the return of income submitted by him and to submit documents called for in the notice under Section 142(1). The petitioner responded thereto on 15.02.2024, 08.03.2024 and 14.03.2024. Being dissatisfied with such replies, by show cause notice dated 24.03.2024, the petitioner was called upon to show cause in respect of the

proposed addition of an aggregate sum of Rs.79,08,458/-. Until such point, the petitioner was not put on notice that such addition is being proposed. In those circumstances, the principles of natural justice warrant that a reasonable opportunity be provided to the petitioner to show cause as to why such addition should not be made. The time limit provided in the show cause notice was two days. This is clearly not reasonable. Consequently, the impugned assessment order cannot be sustained.

5. For reasons set out above, impugned order dated 29.03.2024 is set aside and the matter is remanded to the assessing officer for re-consideration. The petitioner is permitted to submit a reply to the show cause notice within ***fifteen days*** from the date of receipt of a copy of this order. Upon receipt thereof, the assessing officer is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh assessment order within ***three months*** from the date of receipt of the petitioner's reply.

6. W.P.No.15949 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.17415, 17426 and 17427 of 2024 are closed.

03.07.2024

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

To

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Chennai 600 034.

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SENTHILKUMAR RAMAMOORTHY,J

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