IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 03.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.16013, 16315 & 16320 of 2024
and W.M.P.Nos.17863, 17492, 17855, 17491, 17490, 18004, 17856, 17865 & 17866 of 2024

Gudiyatham Muniraj Ashokkumaran
No.140, Gandhi Road, Nadupet,
Vellore, Tamilnadu – 632 602.
PAN: AQXPA0744L ... Petitioner in all WP's

-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 in all WP's

PRAYER in W.P.No.16013 of 2024: 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/147/2023-24/1063649860(1) for the Assessment Year 2016-17.

PRAYER in W.P.No.16315 of 2024: 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/147/2023-24/1063649851(1) for the Assessment Year 2019-20.

PRAYER in W.P.No.16320 of 2024: 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 143(3) of the Income Tax Act, 1961 dated 29.03.2024 in DIN & Order No: ITBA/AST/S/147/2023-24/1063649812(1) for the Assessment Year 2022-23.

For Petitioner : Mr.A.S.Sriraman

For Respondents in all WP's : Mr.A.P.Srinivas, Sr. SC

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COMMON ORDER

In these writ petitions, assessment orders relating to assessment years 2016-17, 2019-20 and 2022-23 are challenged on the ground of breach of principles of natural justice. The petitioner filed the returns of income for the above mentioned assessment years on 30.03.2018, 20.03.2020 and 31.07.2022, respectively. Re-assessment proceedings were initiated by issuing notice under Section 148. Pursuant thereto, the petitioner filed the returns of income on 12.07.2023 and 13.07.2023, respectively. 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 in respect of an unaccounted loan, unexplained jewellery and unsecured loan. 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 the responses. 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 and that the show cause notice does not have the significant attached thereto the 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. 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.16013, 16315 and 16320 of 2024 are disposed of on the above terms. No costs. Consequently, W.M.P.Nos.17863, 17492, 17855, 17491, 17490, 18004, 17856, 17865 and 17866 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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SENTHILKUMAR RAMAMOORTHY,J

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