IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2024

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.26378 of 2022
and
W.M.P.Nos.25449, 25450 and 25529 of 2022

Gangavan Gangavarajan ... Petitioner

Vs.

1.The Additional/Joint/Deputy/Assistant Commissioner
of Income Tax,
Income-Tax Officer,
National Faceless Assessment Centre,
Delhi.

2.The Assistant Commissioner of Income Tax,
Non Corp Circle 10(1),
Room No.603, Sixth Floor,
Chennai – Wanaparthy Block,
No.121, Mahatma Gandhi Road,
Nungambakkam,
Chennai – 600 034. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records in PAN ADVPG0467D for Assessment Year AY 2018-19 and quash the

Impugned Order under Section 147 read with Section 144 read with Section 144B of the Income Tax Act, 1961 in DIN No.ITBA/AST/S/147/2021-22/1041916451(1) dated 29.03.2022 passed by the first respondent for the AY 2018-19 and to quash the same.

For Petitioner : M/s.G.Vardini Karthik

For Respondents : Mr.V.Mahalingam
Senior Standing Counsel

ORDER

The petitioner is before this Court against the Assessment Order dated 29.03.2022 passed under Section 147 read with 144 and 144B of the Income Tax Act, 1961 by the first respondent.

2. The learned counsel for the petitioner would submit that Section 144B of the Income Tax Act, 1961 was first inserted with effect from 01.04.2021. It is submitted that the said provision did not apply to re-assessment under Section 147 of the Income Tax Act, 1961. In this connection, a reference was made by the learned counsel for the petitioner to Sub Clause 1 to Section 144B of the Income Tax Act, 1961 as per which notwithstanding anything to the contrary contained in any

other provision of this Act, the assessment, reassessment or re computation under Sub-Section (3) of section 143 or under Section 144 or under Section 147, as the case may be, with respect to the case referred to in sub-section (2), shall be made in a faceless manner.

3. That apart, the learned counsel for the petitioner would submit that the petitioner was issued with a Draft Assessment Order-cum-Show Cause Notice on 27.03.2022 which has culminated in an order dated 29.03.2022 and thus there has been gross violation of principles of natural justice as the petitioner was not given an adequate time to respond to Draft Assessment Order-cum-Show Cause Notice dated 27.03.2022.

4. Defending the order, the learned Senior Standing Counsel for the respondents submitted that the submission of the petitioner is without any merits. It is submitted that Sub-Section 1(iii)(a) to Section 144B itself makes it clear that even in cases of re-assessment, the machinery under Section 144B was to be invoked.

5. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents.

6. The challenge to the impugned proceedings on the ground that machinery under Section 144B of the Income Tax Act, 1961 was not available to the respondent in the light of the subsequent amendment to Section 144B(1) vide Finance Act, 2022 with effect from **01.04.2022** is not tenable in view of Sub-Clause (iii)(a) to Section 144B(1) of the Income Tax Act,1961 as it stood during the period in dispute and on the date of the impugned order dated 29.03.2022. However, there has been a undue hurry in passing the impugned order after issuance of **Draft Assessment Order-cum-Show Cause Notice** on **27.03.2022**, as the impugned order was passed on **29.03.2022**.

7. Therefore, to balance the interest of petitioner and the respondents, Court is inclined to set aside the impugned order and remit the case back to the respondent for passing fresh orders on merits preferably within a period of six months from the date of receipt of a

copy of this order. The petitioner may file a reply, if any, within a period of six months from the date of receipt of a copy of this order. The impugned order which stands quashed shall be treated as addendum to **Draft Assessment Order/Show Cause Notice** dated **27.03.2022**. The respondents shall co-ordinate with the respondents administration to allow the petitioner to upload the reply.

8. This Writ Petition stands disposed of with the above observations. No costs. Consequently, connected writ miscellaneous petitions are closed.

18.11.2024

Index:Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
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To

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C.SARAVANAN, J.

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