IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.01.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.80 of 2024
and W.M.P.Nos.79, 81 of 2024

M/s.R R Donnelley India Outsource Private Limited
Represented by its Authorized Signatory Mr.Jyoti Prosad Bose
43-A, Astron House First Main Road
R.A Puram, Chennai 600 028. ... Petitioner

-vs-

Assessment Unit / Verification Unit / Review Unit
Income Tax Department, New Delhi. ...
Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records pertaining to impugned order dated 13.12.2023 passed by the Respondent in DIN & Order No.ITBA/AS/F/144C/2023-24/1058716711(1) for Assessment Year 2021-22, and quash the same.

For Petitioner : Mr.N.V.Balaji

For Respondent : Mr.V.Mahalingam, Sr. SC

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ORDER

A draft assessment order under Section 144C(1) of the Income Tax Act, 1961 is assailed on the ground of breach of principles of natural justice.

2. The petitioner asserts that a show cause notice dated 01.12.2023 was issued by the respondent with regard to proposed variations. In response thereto, the petitioner requested for an extension of time to reply to the show cause notice by referring to the unprecedented rains in Chennai in December 2023. According to the petitioner, no communication was received in response to the request for adjournment. Thereafter, the impugned order came to be issued. Learned counsel for the petitioner submits that the petitioner is put to great prejudice by the issuance of the draft order because such draft order ordinarily forms the basis for the final order. He further states that the petitioner would have had the opportunity to convince the Assessing Officer that the proposed variations are untenable if

provided with the opportunity to show cause.

3. Mr.V.Mahalingam, learned senior standing counsel, accepts notice on behalf of the respondent. He submits that the impugned order came to be issued because the petitioner failed to respond to the show cause notice even within the two week period for which the petitioner sought extension.

4. The show cause notice dated 01.12.2023 discloses that the petitioner was called upon to show cause as to why variations under about three heads should not be made. The request for a two week extension is on record and there is clear evidence that such request was received by the Income Tax Department. In these circumstances, the impugned draft order came to be issued on 13.12.2023 without waiting for the petitioner's reply. Solely on the ground that the petitioner was not provided a reasonable opportunity, I am inclined to interfere with the impugned order. Therefore, the order is quashed.

5. Accordingly, W.P.No.80 of 2024 is disposed of on the following terms:

(i) The petitioner is directed to reply to the show cause notice dated 01.12.2023 within ***two weeks*** from the date of receipt of a copy of this order.

(ii) Upon considering such reply, the respondent is directed to issue a draft order within ***four weeks*** thereafter.

(iii) There shall be no order as to costs.

(iv)Consequently, W.M.P.Nos.79, 81 of 2024 are closed.

08.01.2024

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

To

Assessment Unit / Verification Unit / Review Unit
Income Tax Department,
New Delhi.

SENTHILKUMAR RAMAMOORTHY,J

rna

<u>W.P.No.80 of 2024</u>
<u>and W.M.P.Nos.79, 81 of 2024</u>

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