BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.12.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **K.KUMARESH BABU**

W.P.(MD) No.7510 of 2024 &
WMP.Nos. 6892 & 6893 & 24194 of 2024

L.Gopalakrishnan ... Petitioner

/vs./

1.The Income Tax Officer,
Ward No.1,
Thoothukudi.

2.The Assessment Unit,
Income Tax Department,
Ministry of Finance,
Government of India.

3.The National Faceless Assessment Centre,
Income Tax Department,
Ministry of Finance,
Government of India. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned assessment order dated 09.03.2024 in DIN No.ITBA/AST/S/147/2023-24 / 1062295629(1) and consequential impugned demand notice dated 09.03.2024 in Notice No.ITBA/AST / S/ 156/2023-24/ 1062295991(1) passed by the second respondent and quash the same and consequently permit the petitioner to submit his explanation and response to the notice dated 29.02.2024 within two weeks and pass such other orders.

For Petitioner : Mr.J.Barathan

For Respondents: Mr.J.Parekhkumar Standing counsel for RR1-3

ORDER

This Writ Petition had been filed against the order of the assessment made by the Department.

2.It is the case of the petitioner that he was not able to give a reply within the time prescribed as he was not in station. Only when he came from the station, he had the knowledge of such show cause notices, by that time order impugned was passed. A reading of the impugned order would suggest that the show cause notices dated 29.02.2023, 26.09.2023 & 01.11.2023 i.e., the time gap between the first and last show cause notices was nearly nine(9) months and thereafter, the impugned order came to be passed on 09.03.2024, which is also a period of four (4) months. Further the Hon'ble Apex Court in the case of

Assistant Commissioner of State Tax and others vs. Commercial Steel Limited reported in ***2021 SCC Online 884***, had held that a Writ Petition can be entertained in an exceptional circumstances, where there is :-

(i) a breach of fundamental rights;

(ii) a violation of the principles of natural justice;

(iii) an excess of jurisdiction; or

(iv) a challenge to the vires of the statute or delegated legislation.

3.In the present case, violation of principles of natural justice was that there has been no proper notice as already indicated supra. Three notices were issued during the span of nine (9) months and after a period of four months i.e., in March 2024, only the impugned order had been passed. No steps have been taken by the petitioner to submit his reply even though belatedly. Hence, I do not find any interference to be made, as none of the grounds raised in this Writ Petition fall within the four parameters, as envisaged by the Hon'ble Apex Court in the judgment stated supra.

4.In view of the same, this Writ Petition is disposed of with liberty to the petitioner to approach the Appellate Authority in the manner known to law. However, there shall be no order as to costs. Consequently connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
gba

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K.KUMARESH BABU, J.

Gba

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