IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

WP. Nos.10864, 9643, 9660 & 9661 of 2019
and
WMP Nos. 10263, 10268, 10273, 10274,
10275 & 10276, 11310 & 11312 of 2019,

Joseph Philip	... Petitioner in WP. No.10864 of 2019
Rajiv Rai	... Petitioner in WP. Nos.9643 of 2019
Ritesh Rai	... Petitioner in WP. Nos.9660 of 2019
Ritika Rai	... Petitioner in WP. Nos.9661 of 2019

versus

Deputy Commissioner of Income Tax,
Central Circle-2(3),
No.46, Mahatma Gandhi Road,
Nungambakkam,
Chennai-600034 ... Respondent in WP. Nos.10864, 9643, 9660 & 9661 of 2019

PRAYER in WP. Nos.10864, 9643, 9660 & 9661 of 2019: Writ Petitions filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari, calling for the records on the file of the respondent in issuing the impugned notice in C.No.DCIT/CC-2(3)/2018-19 dated 11.03.2019 along with consequent impugned order in F.No.DCIT-CC-2(3)/179/2018-19 under Section 179 of the Income Tax Act, 1961 dated 15.03.2019 and quash the same as illegal, arbitrary and without jurisdiction and pass orders.

For the Petitioners :Mr.Sivaraman R

For the Respondent :Mr.A.P.Srinivas
Senior Standing Counsel

COMMON ORDER

The present writ petitions are filed challenging the impugned notices dated 11.03.2019 and the consequential orders dated 15.03.2019 invoking Section 179 of the Income Tax Act (in short, 'the Act')

2. The petitioners are Directors of a private limited company carrying on business in the name and style of M/s.RKKR Steels Limited. Pursuant to search, an order of assessment came to be passed under Section 143(3) read with Section 153A of the Act, for the assessment year 2013-14, raising a demand of about 63.09 Crores. Apparently, the Revenue having difficulty in recovering the dues from the company, had initiated proceedings under

Section 179A of the Act. Section 179A of the Act provides that if it is found that the dues of a private company cannot be recovered from the said company then every person who was the director of the private company during the relevant period shall be jointly and severally liable for the payment of tax unless it is shown that the non recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on the part of the director in relation to the affairs of the company.

3. The short ground on which the impugned orders have been challenged is that the impugned orders were made on the basis of show cause notices dated 11.03.2019, calling upon the petitioners to appear on 14.03.2019, however, the said show cause notices itself were admittedly served on the petitioners on 15.03.2019 and the orders came to be passed on 15.03.2019, thus the petitioners had no opportunity to put forth their case.

4. The above facts are not in dispute.

5. Learned counsel for the respondent would submit that the impugned orders may be treated as show cause notices and the petitioners may submit their objection to the notices dated 11.03.2019, within a period of two weeks from the date of receipt of a copy of this order. If such response/reply is filed, the same would be considered and orders shall be passed, after affording the petitioners a reasonable opportunity of hearing, in accordance with law.

6. In view thereof, the writ petitions stand disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

18.03.2025

Index : Yes/No
Neutral Citation : Yes/No
mrn

To:
The Deputy Commissioner of Income Tax,
Central Circle-2(3),
No.46, Mahatma Gandhi Road,
Nungambakkam,

Chennai-600034

MOHAMMED SHAFFIQ, J.

(mrn)

WP. Nos.10864, 9643, 9660 & 9661 of 2019

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