[3261]

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WEDNESDAY ,THE TWENTY SEVENTH DAY OF APRIL TWO THOUSAND AND TWENTY TWO

:PRESENT:

THE HONOURABLE SRI JUSTICE UJJAL BHUYAN

AND

THE HONOURABLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION NO: 21844 OF 2022

Between:

M/s. Boorugu Knitts Limited, Flat No.3A, H.No.6-3-380/8/3, R.A.Residency, Takur Mansion Lane, Somajiguda, Hyderabad -500082. PAN. AABCB4178J Rep. by its Managing Director Mr.Umamaheshwar Rao Boorugu RJo.1-10-2/4, Begumpet, Hyderabad-500016,

Petitioner

AND

1. The Principal Commissioner of Income Tax-1, Hyderabad, Signature Towers, Kondapur, Kothaguda, Hyderabad-500084.
2. The Deputy Commissioner of Income, Circle-1(1), IT Tower, AC Guards, Masab Tank, Hyderabad.
3. The Additional/Joint/Deputy/Assistant Commissioner of Income Tax/ Income Tax Officer, National Faceless Assessment Centre, Delhi.

Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased To issue a writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring - (i) the reassessment order u/s.147 r/w.144 of the Income Tax Act, 1961 dated 30.03.2022 for A.Y.2017-18, DIN and Order No.ITBA/AST/S/147/ 2021-22/1042136106(1) as invalid, arbitrary and illegal, as no notice u/s.148 of the Act was served on the petitioner before passing the impugned order, and (ii) and consequently quash the same along with demand of Rs.2,06,09,540/- raised by notice u/s.156 of the Act under DIN and Notice No.ITBA/AST/S/156/2021-22/1042136201 (1), and (iii) quash the notice u/s.270-A r/w.274 of the Act dated 30/03/2022 under DIN and Notice No. ITBA/PNL/S/270A/2021-22/1042149584(1) ;

IA NO: 1 OF 2022:

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of all further proceedings arising out of the demand of Rs.2,06,09,540/- raised by notice u/s,156 of the Act under DIN and Notice No.ITBA/AST/S/156/2021-22/1042136201(1) and stay the notice u/s.270A r/w.274 of the Act dated 30/03/2022 under DIN and Notice No..ITBA/PNL/S/270A/2021-22/1042149584(1), pending disposal of WP 21844 of 2022, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Dr. C P

RAMASWAMI Advocate for the Petitioner and Sri Ajay Kumar Kulkarni Junior Standing Counsel representing Sri B Narasimha Sharma, Senior Standing Counsel for the Respondents, the Court made the following..

ORDER:

Heard Dr.C.P.Ramaswami, learned counsel for the petitioner & Mr. Ajay Kumar Kulkarni, learned junior standing counsel for Income Tax Department representing Mr. B. Narasimha Sharma, learned senior standing counsel.

Assailing the re-assessment order dated 30.03.2022 issued by the second respondent under Section 147 of the Income Tax Act, 1961 (briefly 'the Act' hereinafter) read with Section 144 of the said Act for the assessment year 2017-18, learned counsel for the petitioner submits that no notice under Section 148 of the Act was served upon the petitioner. Even subsequent notices under Sections 142 or 144 of the Act were also not received. There were no SMS alerts.

From paragraph Nos.10 and 11 of the Writ affidavit it is seen that after petitioner had looked into the e-filing portal of the Income Tax Department, it transpired that notice under Section 144 of the Act for the assessment year 2017-18 dated 23.03.2022 was addressed in the following manner "Dear AABCB4178J".

Learned counsel for the petitioner has referred to Section 282 of the Act as well as Section 13 of the Information Technology Act, 2005 to contend that there was no valid service of notice upon the petitioner. In a case of re-assessment had the petitioner received the notice, certainly he would have availed the opportunity for seeking reasons and raising objections.

Issue Notice.

Mr. Ajay Kumar Kulkarni, learned junior standing counsel representing Mr. B. Narasimha Sharma, learned senior standing counsel waives notice for all the respondents.

Respondents may file affidavit by the next date.

In the mean while, there shall be stay of the re-assessment order dated 30.03.2022 for the assessment year 2017-18. Needless to say, all consequential orders/steps shall also remain stayed.

List on 24.06.2022.

SD/- P. PADMANABHA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Commissioner of Income Tax-1, Hyderabad, Signature Towers, Kondapur, Kothaguda, Hyderabad-500084.
2. The Deputy Commissioner of Income, Circle-1(1), IT Tower, AC Guards, Masab Tank, Hyderabad.
3. The Additional/Joint/Deputy/Assistant Commissioner of Income Tax/ Income Tax Officer, National Faceless Assessment Centre, Delhi. (1 to 3 by RPAD)
4. One CC to SRI. C P RAMASWAMI Advocate [OPUC]
5. Two spare copies

HIGH COURT

UBJ & SNJ

DATED:27/04/2022

LIST ON 24.06.2022.

ORDER

WP.No.21844 OF 2022

STAY