IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

FRIDAY ,THE TWENTY EIGHTH DAY OF OCTOBER TWO THOUSAND AND TWENTY TWO

:PRESENT:

THE HONOURABLE THE CHIEF JUSTICE UJJAL BHUYAN

AND

THE HONOURABLE SRI JUSTICE C.V. BHASKAR REDDY

WRIT PETITION NO: 39666 OF 2022

Between:

Dhanlaxmi Iron Industries Private Limited, having its Registered Office at 15-9-358/9, Mukhtyargunj, Hyderabad - 500012, Telangana and Represented by its authorized signatory Mr. Rajesh Gupta

Petitioner

AND

1. Union of India, represented by its Secretary, Department of Revenue, Ministry of Finance, North Block, New Delhi -110001.
2. Assistant Commissioner of Income Tax, National E-Assessment Center, Room No. 401, 2nd Floor, Jawaharlal Nehru Stadium, Delhi- 110003.
3. The Assessment Unit, Income Tax Department, National Faceless Assessment Centre, Room No. 401, 2nd Floor, E-Ramp, Jawaharlal Nehru Stadium, Delhi - 110003

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 in the nature of a Writ of Mandamus declaring the Impugned Assessment Order dated 29.09.2022 for AY 2020-21 in PAN. AABCD0679C bearing Order No . ITBA/AST/S/143(3)12022-23/1046122156(1) as being void, illegal arbitrary, violative of Article 14 of the Constitution of India and violative of Principles of Natural Justice;

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 stay the operation of the penalty notice dated 29-09-2022 bearing DIN. ITBA/PNL/S/270A/2022- 23/1046122367(1), pending disposal of WP 39666 of 2022, on the file of the High Court.

IA NO: 2 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 stay all further proceedings and consequential actions including collection of tax pursuant to the Impugned Assessment Order dated 29.09.2022 for AY 2020-21 in PAN. AABCD0679C bearing Order No . ITBA/AST/S/143(3)/2022-23/1046122156(1), pending disposal of WP 39666 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 Sri S Ravi, Senior Advocate for Sri V ANEESH Advocate for the Petitioner and Sri GADI PRAVEEN KUMAR(Deputy Solicitor General of India) for the Respondent 1 and Sri B.Narasimha Sarma,(S.C.) for the Respondents 2 & 3, the Court made the following.

ORDER:

Heard Mr.S.Ravi, learned Senior counsel for the petitioner.

In this writ proceeding, petitioner has assailed legality and validity of the assessment order dated 29.09.2022 passed by the third respondent under Section 143(3) r/w Section 144B of the Income Tax Act, 1961 (briefly 'the Act' hereinafter) for the assessment year 2020-2021.

Principal ground of challenge is that no draft assessment order was framed by the Assessing Authority as is the requirement under Section 144B of the Act; instead Assessing Authority straight away proceeded and passed the assessment order. He submits that non-compliance to the procedure laid down under Section 144B of the Act, including framing of draft assessment order and calling for objection, would render an assessment order null and void. Being a jurisdictional error, such an assessment order is amenable to challenge in a writ proceeding.

Issue notice.

Mr.G.Praveen Kumar, learned Deputy Solicitor General of India waives notice for the first respondent, whereas Mr.B.Narasimha Sarma, learned Standing counsel, Income Tax Department, waives notice for respondent Nos.2 & 3.

Respondent Nos.2 & 3 to file counter affidavit by the next date of hearing.

In the meanwhile, there shall be stay of the assessment order dated 29.09.2022 as well as proceedings consequent thereto.

List the matter again on 29.12.2022.

SD/- T. SRINIVAS
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Secretary, Department of Revenue, Ministry of Finance, Union of India, North Block, New Delhi -110001.

2. The Assistant Commissioner of Income Tax, National E-Assessment Center, Room No. 401, 2nd Floor, Jawaharlal Nehru Stadium, Delhi-110003.
3. The Assessment Unit, Income Tax Department, National Faceless Assessment Centre, Room No. 401, 2nd Floor, E-Ramp, Jawaharlal Nehru Stadium, Delhi – 110003 (1 to 3 by RPAD)
4. One CC to SRI. V ANEESH Advocate [OPUC]
5. Two spare copies

HIGH COURT

HCJ & CVBRJ

DATED:28/10/2022

POST ON 29/12/2022

ORDER

WP.No.39666 of 2022

STAY