[3295]

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

SATURDAY ,THE TWENTY NINETH 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: 39706 OF 2022

Between:

M/s RAJA PUSHPA PROPERTIES PRIVATE LIMITED, Plot No. 34, Rajapushpa House, Silicon Valley, Madhapur, Hyderabad-500081. Rep. by its Chairman/Director.

Petitioner

AND

1. Assessment Unit, Income Tax Department, National Faceless Assessment Centre, Delhi, Income-tax Department, Ministry of Finance, Room No. 401, 2nd Floor, E-Ramp, Jawaharlal Nehru Stadium, Delhi-110003.
2. Deputy/Assistant Commissioner of Income-Tax, Circle 3(1), Signature Towers, Kondapur, Hyderabad-500084.
3. Principal Commissioner of Income-tax - 1, IT Towers, Masab Tank, Hyderabad-500004.

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 the impugned order dt. 29/09/2022 passed u/s 143(3) r.w.s. 144B of the Act, for A.Y 2020-21, vide Document Identification No.(DIN) ITBA/AST/S/143(3)/2022-23/1046122105(1), without following the principles of Natural justice and the due procedure of law envisaged under section 144B of the Act, as void, illegal and contrary to the provisions of Income-tax Act;

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 suspend the impugned order dt.29/09/2022 passed u/s 143(3) r.w.s. 144B of the Act, for A.Y 2020-21, vide Document Identification No.(DIN) ITBA/AST/S/143(3)12022-23/1046122105(1) and stay the collection of arbitrary demand, pending disposal of WP 39706 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 Counsel for SRI DUNDU MANMOHAN Advocate for the Petitioner and Ms Sapna Reddy, Advocate representing Sri J V PRASAD (S.C) for the Respondents, the Court made the following.

ORDER:

Heard Mr. S.Ravi, learned Senior Counsel appearing for the petitioner.

Challenge made in this writ petition is to the assessment order dated 29.09.2022 passed under Section 143(3) of the Income Tax Act, 1961 (briefly, 'the Act' hereinafter) read with Section 144B of the Act for the assessment year 2020-21.

Challenge has been made on the ground that the procedure prescribed under Section 144B of the Act as applicable to the assessment year 2020-21 was not adhered to by the assessing authority inasmuch as the various steps as contemplated under Section 144B(1) of the Act were not taken. That apart, as per requirement of clause (xiv) of sub-section (1) of Section 144B of the Act, no draft assessment order was framed by the assessing authority which was also not served upon the petitioner to call for its objection. Instead, a show cause notice dated 20.09.2022 was issued to the petitioner.

Learned Senior Counsel appearing for the petitioner submits that the show cause notice can never be a substitute for the draft assessment order as statutorily provided.

Issue notice.

Ms. Sapna Reddy, learned counsel representing Mr. J.V.Prasad, learned Standing Counsel for Income Tax Department, waives notice for all the respondents.

Respondents to file counter affidavit by the next date.

In the meanwhile, there shall be stay of the assessment order dated 29.09.2022 as well as consequential steps taken pursuant thereto.

List on 29.12.2022.

SD/- P. PADMANABHA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. Assessment Unit, Income Tax Department, National Faceless Assessment Centre, Delhi, Income-tax Department, Ministry of Finance, Room No. 401, 2nd Floor, E-Ramp, Jawaharlal Nehru Stadium, Delhi-110003.
2. The Deputy/Assistant Commissioner of Income-Tax, Circle 3(1), Signature Towers, Kondapur, Hyderabad-500084.
3. The Principal Commissioner of Income-tax - 1, IT Towers, Masab Tank, Hyderabad-500004. (1 to 3 by RPAD)
4. One CC to SRI. DUNDU MANMOHAN Advocate [OPUC]
5. Two spare copies

HIGH COURT

HCJ & CVBRJ

DATED:29/10/2022

POST ON 29-12-2022

ORDER

WP.No.39706 of 2022

STAY

HIGH COURT FOR THE STATE OF TELANGANA
SPECIAL CELL
01 NOV 2022
DESPATCHED