

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2021

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P. No.10433 of 2019
& WMP Nos.11029 & 11032 of 2019

- 1 Ekambaram Sukumaran
Plot No.20 Sowtambika Nagar Dasanaicken
Patti Salem- 636 201 ...Petitioner
- Vs.
- 1 The Income Tax officer
National e- Assessment Centre Delhi Room No.
401 2nd Floor E- Ramp Jawaharlal Nehru
Stadium Delhi- 110 003.
- 2 Income Tax Officer
Circle -1 (1) Salem No.3 Gandhi Rd
Hasthampatti.Salem Tamil Nadu- 636 007.
...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus to call for the records of the writ petitioner / Assessee on the file of the First respondent to quash the impugned order dated 23.03.2021 passed u/s 143 (3) of the Act for the Assessment Year 2018-19 in DIN ITBA/ AST/ S/ 143 (3)/ 2020- 21/ 1031677259 (1) and consequently direct the First

Respondent to complete the fresh assessment for the assessment year 2018- 19 after granting reasonable /sufficient opportunity of hearing.

For Petitioner : Mr.A.S.Sriraman

For Respondents : Mr.ANR.Jayaprathap

Junior Standing Counsel

ORDER

Mr.ANR.Jayaprathap, learned Junior Standing Counsel, who accepts notice for the respondents, has been served with the copy of the Writ Petition and its annexures and hence is aware of the issue raised as well as the dates and sequence of events that have transpired in this matter. Thus, by consent of both sides, this Writ Petition is disposed finally even at the stage of admission.

2. The challenge is to order of assessment dated 23.03.2021 relating to assessment year 2018-19 passed in terms of the provisions of the Income Tax Act, 1961 (in short 'Act'). The short point agitated is the gross violation of principles of natural justice.

3. Pre-assessment notice dated 19.03.2021 was issued calling upon the petitioner to show cause why assessment should not be completed in line with the

draft assessment order under the faceless assessment scheme. In conclusion, the petitioner was called upon to submit his response by 23:59 hours of 23.03.2021. However, even prior to the elapse of time granted, the impugned order of assessment has come to be passed on the same day, i.e., 23.03.2021, one assumes during the working hours. Hence, there is a violation of principles of natural justice writ large of the document.

4. One need hardly refer to the decision of the learned single Judge of this Court in the case of *S.Velupalandar V. Deputy Commercial Tax Officer* (83 ITR 683), wherein this Court has stated that it was incumbent upon an Officer to wait till the end of the working day when the matter had been posted to finalize proceedings. This is an even better case than in the matter of *Velupalandar* (supra), since the Assessing Officer had himself granted time till 23:59 hours on 23.03.2021.

5. The impugned order is thus set aside. The petitioner will file its response to show cause notice dated 19.03.2021 within a period of two weeks from today and the assessment shall be completed de novo within a period of six (6) weeks from today, after hearing the petitioner.

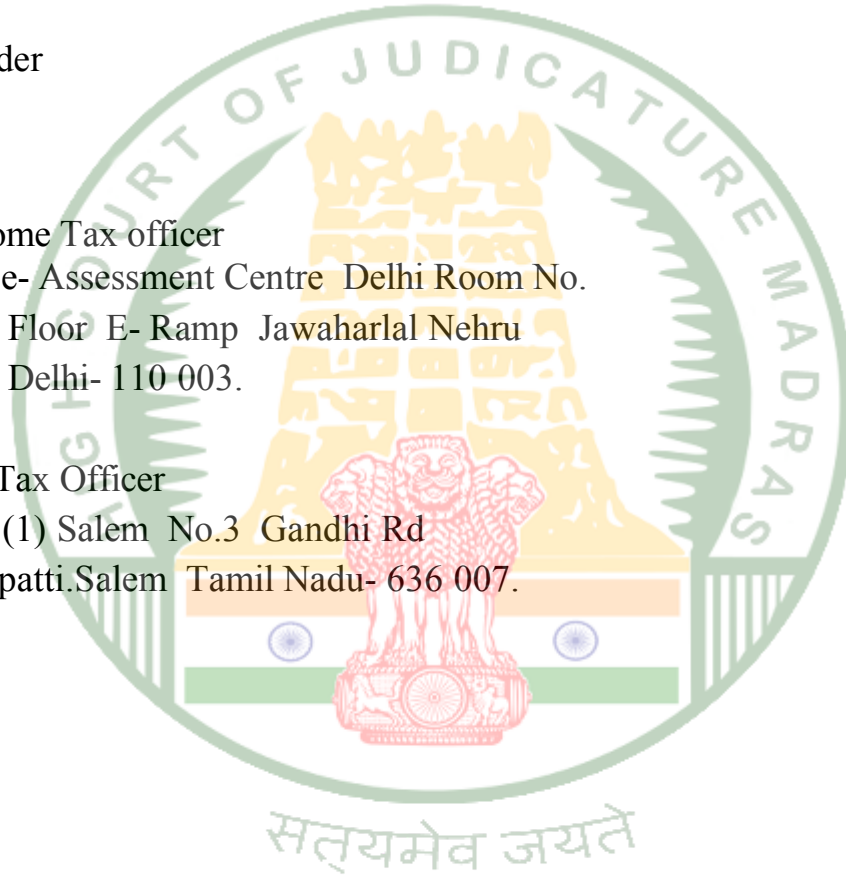
6. This Writ Petition is disposed in the aforesaid terms. No costs. Connected Miscellaneous Petitions are closed.

27.04.2021

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Index: Yes
Speaking order

To

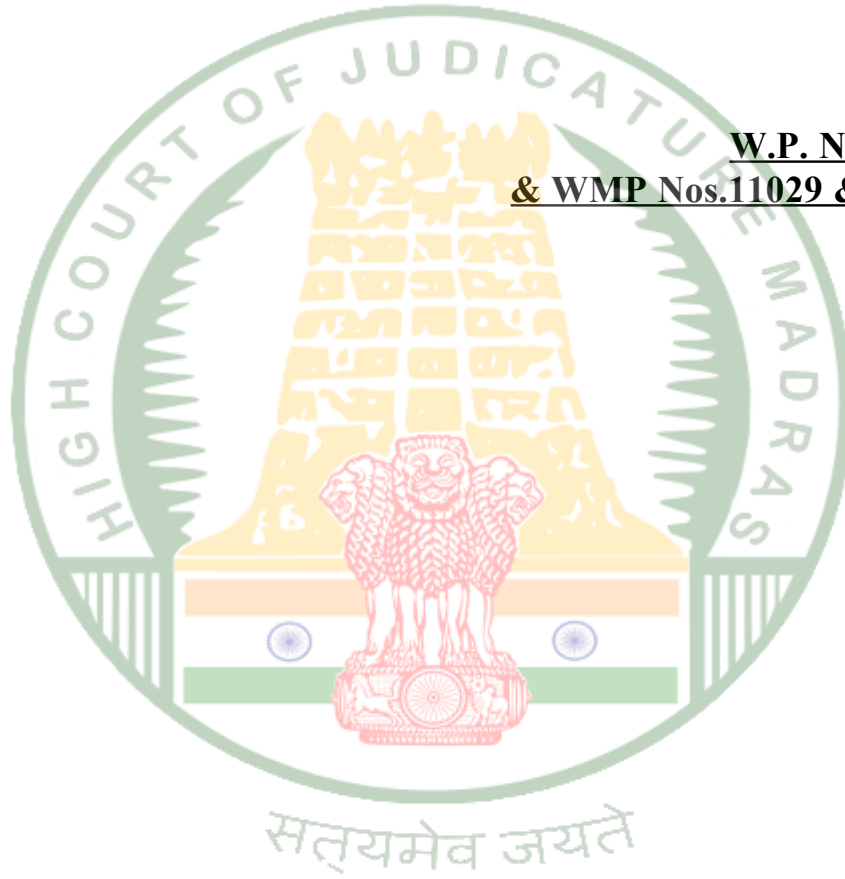
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