IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Writ Petition No.20873 of 2015

C.Krishnamurthy ... Petitioner

Vs

1.Income Tax Officer,
Ward 1(1) Erode.

2.Joint Commissioner
of Income Tax,
Range II, 15 Gandhiji Road,
Erode 638 001. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified Mandamus calling for the records relating to communication of the first respondent in Ref.PAN/ADWPK0548G/2006-07 & 2007 - 08 dated 19.06.2015 and quash the same and consequently direct the first respondent to furnish the copies of documents as requested in letter dated 05.06.2015 issued by the petitioner through his authorised representative, forthwith.

For Petitioner : Mr.Niranjan Rajagopalan
For Respondents : Mr.T.Pramod Kumar Chopda,
Senior Standing Counsel
for I.T.Department.

O R D E R

Heard Mr.Niranjan Rajagopalan, learned counsel appearing for the petitioner and Mr.T.Pramod Kumar Chopda, learned Senior Standing Counsel, who takes notice for the respondents and with their consent, the main writ petition itself is taken up for disposal at the admission stage itself.

2.This writ petition has been filed under Article 226 of the Constitution of India challenging the communication of the first respondent in Ref.PAN/ADWPK0548G/2006-07 & 2007 - 08 dated 19.06.2015 and to direct the first respondent to furnish the copies of documents as requested in letter dated 05.06.2015 submitted by the petitioner through his authorised representative, forthwith.

3. Learned counsel for the petitioner submitted that when a letter dated 05.06.2015 has been submitted by the petitioner through his authorised representative before the Income Tax Officer, Ward -1 (1), Erode, requesting to furnish a copy of some of the necessary documents, the first respondent has rejected the same by order dated 19.06.2015, on the ground that the request of the petitioner cannot be considered as scrutiny assessment has been completed in the assessee case under Section 144 of the Income Tax Act, 1961 and liability for payment of tax has been established on 31.03.2015 and demand notice has been served on 22.05.2015.

4.But, the said reason assigned by the first respondent in the impugned order for non furnishing the copy of the documents as sought for by the petitioner, cannot be accepted by this Court for the reason that when the petitioner has sought for furnishing of certain documents from the first respondent, in all fairness, the first respondent could have furnished the same.

5.Mr.T.Pramod Kumar Chopda, learned Senior Standing Counsel appearing for the respondents submitted that, since, scrutiny assessment has been completed in the assessee case under Section 144 of the Income Tax Act, and liability for payment of tax has been established on 31.03.2015 on the authorised person of the petitioner, the petitioner cannot ask for the proof of despatch of the same.

6.This Court agrees with the said submission made by the learned Senior Standing Counsel appearing for the petitioner but, even otherwise, the petitioner is entitled to receive a copy of the documents sought for in his letter dated 05.06.2015, which is extracted below:-

> "Asst. Year : 2006-07
>
> 1)Certified copy of the savings bank account stated to be maintained by the assessee with UTI Bank and date on which the same was received by your office from the bank.
>
> 2)Certified copy of the notice u/s 148 dated 30/03/2013 with proof of dispatch of the same from your office with date and date on which it was served and person on whom it was served may be given.
>
> 3)Certified copies of the notices u/s 142(1) dated 05.03.2015 and 23/03/2015 with proof of dispatch of the same from your office with date and date on which it was served and person on whom it was served may be given.
>
> Asst. Year : 2007-08
>
> 1)Certified copy of the savings bank account stated to be maintained by the assessee in

Standard Chartered Bank and date on which the same was received by your office from the bank.

2)Certified copy of the notice u/s 148 dated 30/03/2014 with proof of dispatch of the same from your office with date and date on which it was served and person on whom it was served may be given.

3)Certified copies of the notices u/s 142(1) dated 05.03.2015 and 23/03/2015 with proof of dispatch of the same from your office with date and date on which it was served and person on whom it was served may be given."

4. In view of the facts and circumstances of the case, without expressing anything with regard to the merits of the case, I hereby direct the first respondent to furnish all the documents sought for by the petitioner in his letter dated 05.06.2015, to the petitioner, within a period of one week from the date of receipt of a copy of this order.

5. With the above direction, the writ petition is disposed of. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

jbm

To

1.Income Tax Officer,
Ward 1(1) Erode.

2.Joint Commissioner
of Income Tax,
Range II, 15 Gandhiji Road,
Erode 638 001.

+1 cc to M/s. C.R.Associates, Advocate, sr.35373
+1 cc to Mr.T.Pramodkumar Chopda, Senior Standing Counsel for I.T.Department, sr.35245.

W.P.No.20873 of 2015

ku(co), kra(13/08)