IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAISWAMY

W.P.No.16450 of 2016
&
W.M.P.No.14216 of 2016

Babulal ... Petitioner

Vs.

The Assistant Commissioner of Income Tax
Non Corporate Circle - 4(1)
III Floor, Kannammai Building
No.611, Anna Salai
Chennai-6. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records relating to the impugned Assessment Order dated 3.3.2016 of the respondent for the Assessment Year 2008-2009 and to quash the same.

For Petitioner : Mr.R.Gopinath
for M/s.McGAN Law Firm

For Respondent : Ms.Hema Muralikrishnan
Standing Counsel

ORDER

The petitioner has filed the above writ petition to issue a writ of Certiorarified Mandamus to call for the records relating to the impugned Assessment Order dated 3.3.2016 of the respondent for the Assessment Year 2008-2009 and to quash the same.

2. It is the case of the petitioner that the respondent had passed the impugned order without giving an opportunity of personal hearing, which is violative of principles of natural justice.

3. Ms.Hema Muralikrishnan, learned Sanding Counsel takes notice for the respondent and submitted that though sufficient opportunities were given to the petitioner to appear before the respondent, the petitioner has not availed the same and therefore, the respondent cannot be blamed for non-appearance of the petitioner.

4. Mr.R.Gopinath, learned counsel appearing for the petitioner submitted that the petitioner has got a valid case before the respondent and therefore, in the interest of justice, an opportunity may be given to the petitioner to put-forth his case.

5. In view of the submissions made by the learned counsel on either side, since the principles of natural justice has not been followed, I am of the view that in the interest of justice, an opportunity can be given to the petitioner to put-forth his case before the respondent.

6. In these circumstances, the impugned order dated 03.03.2016, is set aside on condition that the petitioner paying 20% of the demand made by the respondent, within a period of four weeks from the date of receipt of a copy of this order. It is also made clear that the petitioner shall not raise the plea of limitation before the respondent. The matter is remitted back to the respondent for fresh consideration and the respondent is directed to decide the matter afresh, on merits and in accordance with law, after affording due opportunity of personal hearing to the petitioner.

With these observations, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Rj

To

The Assistant Commissioner of Income Tax
Non Corporate Circle - 4(1)
III Floor, Kannammai Building
No.611, Anna Salai
Chennai-6.

+1cc to M/s.McGAN Law Firm, Advocate, S.R.No.27197
+1cc to Mr.T.RaviKumar, Advocate, S.R.No.27251

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&
W.M.P.No.14216 of 2016

RK(CO)
CA(13/05/2016)