IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WP.Nos.2189 to 2196 of 2016
WMP.Nos.1876 to 1889 of 2016

M.Subbiah (Late) represented by his
Legal Heir Tirupurasundari
Chennai-78 ... Petitioner
in all WPs

Vs

1.Commissioner of Income Tax (Appeals)-14
Room No.217, 2nd Floor,Main Building
121, MG Road, Nungambakkam, Chennai-34

2.Income Tax Officer, Ward V(3),
121, MG Road, Nungambakkam,
Chennai-34 ... Respondent in all
WPs

Prayer:- These Writ Petitions are filed to issue a Writ of Certiorarified Mandamus to call for the records of the 1st Respondent in proceedings ITA Nos.18/CIT(A)-14/2014-2015, 15/CIT(A)-14/2014-2015, 16/CIT(A)-14/2014-2015, 17/CIT(A)-14/2014-2015, 19/CIT(A)-14/2014-2015, 20/CIT(A)-14/2014-2015, 21/CIT(A)-14/2014-2015 and 23/CIT(A)-14/2014-2015, dated 23.09.2015 and to quash the same and to direct the 1st Respondent to entertain the appeals filed by the Petitioner for the assessment years 2000-2001, 2002-2003, 2003-2004, 2001-2002, 2003-2004, 2002-2003, 2002-2003 and 2001-2002, respectively, on merits.

For Petitioner : Mr.P.V.Sudhakar

For Respondent : Mr.T.Pramodkumar Chopda
Senior Standing Counsel

COMMON ORDER

The Petitioner, in all these Writ Petitions, seeks to quash the impugned order, dated 23.09.2015 of the 1st Respondent, dismissing the appeals filed against the assessment orders dated 29.06.2012 and 28.12.2011, made for the assessment years 2000-2001 to 2003-2004 and to direct the 1st Respondent to dispose of the appeals, by condoning the delay, on merits.

2. The facts in a nutshell of the case in all these Writ Petitions are that the widow, representing the Petitioner/deceased assessee, was brought on record as the legal heir by the Respondent Department in the Income Tax proceedings and she also participated in the Income Tax proceedings through her authorised representative. Appeals have been filed with a delay of 627 and 811 days, challenging the assessment orders dated 29.06.2012 and 28.12.2011, passed under Sections 271(1)(C) and 254 of the Income Tax Act, 1961 for the assessment years 2000-2001 to 2003-2004. The authorised representative attended the hearings and argued in the appeals and filed written submissions. By the impugned orders dated 23.09.2015, the appeals have been dismissed on the ground of delay of 627 and 811 days in filing the appeals and for want of satisfactory explanation for such a delay, confirming the assessment orders for the assessment years 2000-2001 to 2003-2004. Hence, these Writ Petitions have been filed.

3. The learned Counsel for the Petitioner contended that the widow of deceased assessee is not the assessee, however, she participated in the Income Tax proceedings through her authorised representative and that the reason for delay in filing the appeals was that there were several litigations with regard to legal heirs of the deceased assessee pending and she has been litigating the same and the said circumstances cast a shadow as to her status of being the only wife of the deceased assessee and caused such a delay, which had occurred only due to the negligence attitude of the then authorised representative. Further, the learned Counsel for the Petitioner contended that a litigant should not suffer for laches on the part of his Counsel and that condonation of delay in filing the appeals would not cause any prejudice to the Respondent Department, inasmuch as the Petitioner is bound to pay interest for the whole period including the period of delay, if she is unsuccessful in the appeals and therefore, prayed for allowing of these Writ Petitions.

4. The learned Senior Standing Counsel for the Respondents submitted that it is a settled principle of law that the provisions relating to specified period of limitation must be applied with their rigour and effective consequences and that the delay can be condoned only for sufficient and good reasons supported by cogent and proper evidence and that in the absence of such satisfactory explanation for such an inordinate delay, the 1st Respondent was right in dismissing the appeals on the ground of delay and for want of satisfactory explanation for such an inordinate delay and prayed for dismissal of these Writ Petitions.

5. This Court heard and considered the submissions made

by the learned Counsel on either side and also perused the materials placed on record.

6. Admittedly, the petitioner is not the original assessee and she has been brought on record as the legal heir of the deceased assessee. The reason for such delay has been explained to the effect that there has been litigations so as to prove her legal heirship and also due to the negligence attributed towards the then authorised representative as well.

7. No doubt, the delay in each case should be examined individually and no common theory can be put against anyone. The main ground on which the impugned order has been passed by the authority concerned is the delay in filing the appeals.

8. However, this Court cannot brush aside the diligent attitude on the part of the petitioner in participating the Income Tax proceedings through her authorised representative, in the manner known to law. It only denotes the interest of the petitioner in getting along with the appeals. Therefore, this Court is of the considered opinion that the petitioner must be given one more opportunity, however, putting her on terms.

9. Accordingly, the petitioner is directed to pay a sum of Rs.1,000/- (Rupees One Thousand only) to the Tamil Nadu Legal Services Authority, in each of the writ petitions, within a period of two weeks from the date of receipt of a copy of this order. On compliance, the first respondent shall take on file the appeals filed by the petitioner in respect of the assessment years 2000-2001 to 2003-2004 and dispose of the same, on merits and in accordance with law.

10. In the result, all the writ petitions are disposed of, as above. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Srcm

To:

1.The Commissioner of Income Tax (Appeals)-14
Room No.217, 2nd Floor,Main Building
121, MG Road, Nungambakkam, Chennai-34

2.The Income Tax Officer, Ward V(3),
121, MG Road, Nungambakkam, Chennai-34

+ 1 cc to M/s. T Pramodkumar Chopda, Advocate Sr.11849
+1cc to Mr.P.V.Sudhakar, Advocate, S.R.No.5373 (13.06.2016)

WP.Nos.2189 to
2196 of 2016

MP(CO)
Eu 09.03.16