IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.09.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition Nos.33540 to 33542 of 2016 (3 cases)
and
W.M.P.Nos.28953 to 28955 of 2016

E.Madhavan
rep. by his wife and guardina Smt. Thangam.
...Petitioner in all W.Ps.

Vs

1. The Income Tax Officer,
Non Corporate Ward 22 (3)
No.7, Ramakrishna Street,
West Tambaram, Chennai - 600 045.

2. The Tax Recovery Officer - 7,
Room No.203, No.121, N.H.Road,
Chennai - 600 034.
...Respondents in all W.Ps.

Prayer in W.P.No.33540 of 2016

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records from the file of the first respondent relating to ex part best judgment assessment order under section 144 read with section 147 of the Income Tax Act for AY 2008-09, passed in PAN/GIR No.CRKPM 4774 J, dated 25.01.2016, and consequential order under section 220 (2) dated 24.05.2016, and to quash the same as illegal contrary to law and against the Principles of natural Justice and fair play and direct the first respondent to consider the petitioner's return of income and provide reasonable opportunity.

Prayer in W.P.No.33541 of 2016

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records from the file of the second respondent, relating to order of attachment of immovable property in Form No.ITCP-16, passed in T.R.No.1/2016-2017/CRKPM 4774 J, dated 18.07.2016, and to quash the same as illegal, contrary to law and against the Principles of natural justice and fair play.

0Prayer in W.P.No.33542 of 2016

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records from the file of the first respondent, relating to order under section 271 (1) of the Income Tax Act for AY 2008-09, passed in PAN/GIR No.CRKPM 4774 J, dated 29.07.2016, and to quash the same as illegal, contrary to law and against the Principles of natural justice and fair play.

For Petitioner : Mr.C.Bakthasiromoni

For Respondents : Mr.T.Pramod Kumar Chopda
Senior Standing Counsel
assisted by
Mr.S.Rajasekar

COMMON O R D E R

Heard Mr.C.Bakthasiromoni, learned counsel appearing for the petitioner, and Mr.T.Pramod Kumar Chopda, learned Senior Standing Counsel, assisted by Mr.S.Rajasekar, learned counsel, accepting notice on behalf of respondents. With the consent on either side, the Writ Petitions are taken up for disposal at the stage of admission itself.

2. Writ Petition No.33540 of 2016 has been filed by the petitioner, seeking to quash the ex part best judgment assessment order passed by the first respondent, under section 144 read with section 147 of the Income Tax Act for AY 2008-09, dated 25.01.2016, and consequential order, dated 24.05.2016, and to direct the first respondent to consider the petitioner's return of income and provide reasonable opportunity.

3. Writ Petition No.33541 of 2016 has been filed to quash the order of attachment passed by the second respondent, dated 18.07.2016.

4. Writ Petition No.33542 of 2016 has been filed to quash the order passed by the first respondent, under section 271 (1) of the Income Tax Act for AY 2008-09, dated 29.07.2016.

5. The learned counsel appearing for the petitioner claims that the impugned proceeding is an exparte best judgment assessment. However, on a perusal of the impugned orders, it is seen that notice under Section 148 of the Income Tax Act, 1961 (IT Act) has been received by the petitioner, and he has filed objections, and thereafter, his Authorized representative, who is a Chartered Accountant, appeared before the Assessing Officer, and only after hearing him, the assessment has been

completed. Therefore, if the petitioner is aggrieved by the impugned orders, he has to file Appeal before the Appellate Authority, and no grounds have been made out to bypass such remedy.

6. After the above order was dictated, the learned counsel appearing for the petitioner submitted that the petitioner may be granted liberty to file Appeal before the Appellate Authority. The said submission is placed on record.

7. In the result, the Writ Petitions are dismissed as not maintainable. However, liberty is granted to the petitioner to workout his remedy under the provisions of the Act. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Income Tax Officer,
Non Corporate Ward 22 (3)
No.7, Ramakrishna Street,
West Tambaram,
Chennai - 600 045.

2. The Tax Recovery Officer - 7,
Room No.203, No.121, N.H.Road,
Chennai - 600 034.

+1cc to Mr.C.Bakthsiromoni, Advocate 54385
+1cc to Mr.T.Pramodkumar, Advocate Sr.54358

W.P.Nos.33540 to 33542 of 2016

sr[co]
srg 22/10/2016