



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.S. RAMESH

W.P. 15342 of 2011
and
M.P. 1 of 2011

M/s.Pelican Estates & Developers,
represented by its Partner,
Mr.K.V.Prakash,
No.1, Rajamannar,
T.Nagar, Chennai-600 017.

... Petitioner

Vs

1. The Income Tax Appellate Tribunal,
Chennai Bench,
by its Assistant Registrar,
'Rajaji Bhavan', A-II Floor,
Besant Nagar, Chennai-600 090.

2. The Assistant Commissioner of
Income Tax,
Circle IV, 121, M.G.Road,
Chennai-600 034.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in ITA. No.1145/Mds/2010 relating to the assessment year 2006-07 and quash the order dated 08.04.2011 and consequently direct the 1st respondent herein to re-hear the appeal after giving an opportunity of being heard.

For Petitioner : Mr.R.Sivaraman

For Respondent s : Mrs.Hema Muralikrishnan,
1 & 2 Senior Standing Counsel

O R D E R

The order under challenge in the present Writ Petition is that of the Income Tax Appellate Tribunal and in view of Sec.260-A of Income Tax Act, the petitioner is required to file an appeal before the Division Bench of this Court. Hence, this



Writ Petition may not be maintainable.

2. It is further seen that the order of the Tribunal was passed on 08.04.2011, which is claimed to have been received by the petitioner on 20.04.2011 and thereafter, the petitioner has filed this Writ Petition on 28.06.2011, which is within a period of 120 days, and which is the time limit prescribed for filing the appeal, if he had chosen to file. Since the petitioner was diligent enough to challenge the order of the Tribunal within such prescribed time, this Court is of the view that the petitioner can be permitted to file an appeal against the order impugned in the present Writ Petition.

3. In the light of the above observation, the Writ Petition is closed with a liberty to the petitioner to file an appeal against the original impugned order dated 08.04.2011 within a period of thirty days from the date of receipt of the copy of this order. The Registry is directed to furnish the original impugned order to the petitioner forthwith. Accordingly, the Writ Petition stands closed. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

rpp
To

1. The Assistant Registrar,
Income Tax Appellate Tribunal,
Chennai Bench,
'Rajaji Bhavan', A-II Floor,
Besant Nagar, Chennai-600 090.
2. The Assistant Commissioner of Income Tax,
Circle IV, 121, M.G.Road,
Chennai-600 034.

+1cc to Mr.R.Sivaraman, Advocate SR.No.59815

+1cc to Mrs.Hema Muralikrishnan, Advocate SR.No.59564

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VG II(CO)
GMY(21/08/2019)