IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2019

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.3286 of 2019
and
WMP.No.3557 of 2019

M. Arun ...Petitioner

Vs

The Income Tax Officer, Ward I (4),
No.3, Gandhi Road,
Salem-7. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari calling for the records pertaining to the impugned Assessment Order of the respondent in PAN/GIR No.ALAPA6701D for the assessment year 2010-2011 dated 25.12.2018.

For Petitioner: Mr. C.K.M.Appaji

For Respondent : Mr.A.P.Srinivas,
Senior Standing Counsel(Taxes)

O R D E R

Mr. A.P.Srinivas, learned Standing Counsel takes notice for the respondent. At request and by consent of both parties, the Writ Petition is taken up for final disposal at the stage of admission.

2. The petitioner in this Writ Petition challenges an order of re-assessment made under Section 143(3) read with section 147 of the Income Tax Act, 1961 dated 25.12.2018 in respect of assessment year 2010-11.

3. The re-assessment has been completed bringing to tax the cash credits in a bank account in the Axis Bank bearing No.170010100162449 opened during the financial year 2009-2010 and allegedly standing in the name of the petitioner herein.

4. The petitioner had repeatedly taken a plea before the Assessing Officer to the effect that the account did not belong to him. However, the Assessing Officer had conducted enquiries with the Bank based on which the cash deposits made in the aforesaid account to the tune of Rs. 24,20,000/- out of the total deposits of Rs.32,28,000/- had been brought to tax as income of the petitioner as unexplained money under Section 69A of the Income Tax Act.

5. Mr.Arun stresses on the position that the bank account was not that of the petitioner's stating that as such, there was no justification for the addition of the cash credits appearing in the said account in the assessment of the petitioner's income. Learned counsel for the Revenue argues that verification of a bank account is a matter of fact that cannot be undertaken by this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India.

6. A perusal of the impugned order reveals that the Assessing Officer has sought, vide letter dated 04.07.2018 issued to the Bank, for copies of the Account Opening Form, KYC, address proof and name and address of the person introducing the account holder. The documents furnished were supplied to the petitioner, who disputed the signature on the documents stating that they were not his. Other objections were also raised.

7. I am of the categoric view that detailed examination of facts required to appreciate the petitioner's submissions is not possible in this Writ Petition under Article 226 of the Constitution of India, particularly when the facts are themselves disputed.

8. In this light of the matter, this Writ Petition is dismissed. The Writ petitioner is at liberty to challenge the impugned order of re-assessment dated 25.12.2018 by way of statutory appeal before the Commissioner of Income Tax (Appeals) within a period of one (1) month from today. No costs. Consequently, connected miscellaneous petition is closed.

mrn

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Income Tax Officer, Ward I (4),
No.3, Gandhi Road,
Salem-7.

+1cc to Mr.C.K.M.Appaji, Advocate, S.R.No.10295

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Kak(14/03/2019)