IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 19.02.2019

CORAM
THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.4735 of 2019 and
WMP.No.5365 of 2019

K. Rangasamy, ...Petitioner

Vs

1. The Income Tax Officer,
Office of the Income Tax Officer,
Ward 1(4)
Tirupur.

2. The Income Tax Officer,
Office of the Income Tax Officer,
Ward 1 (3)
Tirupur. ... Respondents

....

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari or any other appropriation writ, direction or order calling for the records of the first respondent in its proceedings in PAN: AVUPR6899R, quash the assessment order dated 30.12.2018 made therein for the assessment year 2011-12.

For Petitioner : Sudakar P.V.

For Respondents : Mr. A. P. Srinivas,
Senior Standing Counsel

O R D E R

Mr. A.P.Srinivas, learned Senior Standing counsel takes notice on behalf of the respondents. At request of both sides, the Writ Petition is finally disposed of at the stage of admission.

2. The writ petitioner challenges an order of assessment dated 30.12.2018 passed under section 143(3) read with section 147 of the Income Tax Act, 1961 (in short the 'Act') for the assessment year 2011-12. The assessment has been completed bringing to tax an amount of Rs.31,00,000/- that comprise cash deposits.

3. According to P.V.Sudakar, learned counsel for the petitioner, no opportunity was given prior to completion of the assessment proceedings.

4. According to the Assessing Officer, the deposit in the assessees' bank account comprises unexplained investment. A notice under section 142(1) was issued and a show cause notice dated 19.11.2018 served upon the assessee to which there was no response. Thereafter, a notice under section 133(6) of the Act was issued in response to which bank statements were filed. A show cause notice dated 12.12.2018 was issued to the assessee in response to which the authorized representative of the assessee has appeared along with the assessees' son. Explanations have been furnished by the petitioner that have been rejected as untenable.

5. The addition concerns consideration for the sale of land in respect of which the petitioner's share was Rs.3,00,000/-. However, the bank account of the assessee revealed a deposit of a sum of Rs.31,00,000/-, which is stated to have been earned from agricultural operations. The petitioner has, according to the order of assessment, not been in a position to prove the sources for the deposit and hence, treated the entire deposit as unexplained cash under section 69 of the Act.

6. Mr. A.P.Srinivas, learned Senior Standing counsel submits that the order of assessment is a speaking order in respect of which a statutory remedy by way of statutory appeal is provided.

7. Having heard both learned counsel, I am of the view that the impugned order does not contain any legal infirmity on the basis of which interference will be warranted under Article 226 of the Constitution of India. Though, the learned counsel states that the reasons for re-assessment were not supplied, he also admits that the same were never sought for by the petitioner. In any event, it is always open to the petitioner to raise all grounds before the Commissioner of Income Tax (Appeals) including one challenging the jurisdiction assumed for re-assessment.

8. The petitioner, seeing as he is an agriculturist and a senior citizen, is permitted to file an appeal within a period of two (2) weeks from the date of receipt of a copy of this order and the same, if filed within the timeline as aforesaid, will be received by the Commissioner of Income Tax (Appeals) without reference to limitation.

9. This Writ Petition is disposed of in the aforesaid terms. No Costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mrn

To

1. The Income Tax Officer,
Office of the Income Tax Officer,
Ward 1(4)
Tirupur.

2. The Income Tax Officer,
Office of the Income Tax Officer,
Ward 1 (3)
Tirupur.

+1cc to Mr.B.Raveendran, Advocate, S.R.No.15199
+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.15352

W.P.No.4735 of 2019 and
WMP.No.5365 of 2019

VBA(CO)

rrs 21/03/2019