IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2019

CORAM

THE HONOURABLE DR. JUSTICE VINEET KOTHARI

AND

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WA.No.990/2019 & CMP.No.7437/2019

K.Manivannan .. Appellant/Petitioner

Vs

1.The Commissioner
Income Tax Department
Chennai 600 034.

2.The Income Tax Officer
Non Corporate Ward 10[3]
Chennai 600 034. .. Respondents/Respondents

Prayer in the writ appeal: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 28.01.2019 made in WP.No.2227/2019.

W.P.2227/2019:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relevant to the order passed by the 2nd respondent in Order No. ITBA/ AST/ S/ 143(3)/ 2018-19/ 1014624869(1) dated 28.12.2018 and consequently demand Notice No.ITBA/ AST/ S/ 156/ 2018-19/ 1014624937(1) Dated 28.12.2018 under section 156 of the Income Tax Act 1961 and quash the same is illegal, improper , unreasonable against the law and principles of natural justice.

For Appellant : M/s.S.Sujatha
For R1&R2 : Mr.M.Narayanasamy
Senior Standing Counsel

JUDGMENT
[Judgment of the Court was delivered by DR.VINEET KOTHARI, J.]

This Intra-Court Appeal has been filed by the Assessee, K.Manivannan, aggrieved by the order dated 28.01.2019 passed by the learned Single Judge of this Court, dismissing the writ petition on the ground of availability of the effective alternate remedy by way of an appeal against the impugned Assessment Order under section 143[3] of the Income Tax Act, 1961.

2 The operative portion of the order passed by the learned Single Judge is quoted below for reference:-

> ''7 Accordingly, without expressing any view on the merits of the contentions raised in this writ petition, the same is disposed of, by granting liberty to the petitioner to file such an appeal within a period of two weeks from the date of receipt of a copy of this order. If any such appeal is filed by complying with other statutory requirements, the same shall be considered and decided by the Appellate Authority on merits and in accordance with law without reference to the period of limitation. No costs. Connected miscellaneous petitions are closed.''

3 Having heard the learned counsel for the parties, we are satisfied that no interference is called for in the order of the learned Single Judge. The writ appeal is without any merit and is liable to be dismissed. We, however, grant a period of thirty days to the appellant/assessee to file a regular appeal before the First Appellate Authority, viz., the Commissioner of Income Tax [Appeals], Chennai and on such appeal being filed within thirty days from today, the Commissioner of Income Tax [Appeals], Chennai, will not raise any objection about the limitation part in filing the said appeal. However, subject to the satisfaction of the Commissioner of Income Tax [Appeals], Chennai, as to the other conditions for maintaining the said appeal, the appeal may be decided in accordance with law.

4 Accordingly, the writ appeals stands dismissed with the above direction. No costs. Consequently, connected miscellaneous petition is also dismissed.

-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To
1.The Commissioner
Income Tax Department
Chennai 600 034.

2.The Income Tax Officer
Non Corporate Ward 10[3]
Chennai 600 034.

+2 CC to M/s.S. Sujatha, Advocate sr 62280.
+1 CC to Mr.J.Narayanasamy, Advocate sr 63091.

WA.No.990/2019

LN(CO)
SP(19/08/2019)