IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 09.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.9157 of 2012
and
M.P.No.1 of 2012

Smt.Parimala Thambusamy ...Petitioner

Vs

1. The Chief Commissioner of Income Tax-V,
121, Mahatma Gandhi Road,
Nungambakkam,
Chennai - 600034.

2. The Assistant Commissioner of Income Tax,
Business Circle XIV,
121, Mahatma Gandhi Road,
Nungambakkam,
Chennai - 600034. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the records in C.No.CC.V/24(3)/2011-12 dated 25.10.2011 on the file of the 1st respondent for the assessment year 2002-03 and quash the same.

For Petitioner : Ms.E.Malini
for M/s.Pass Associates

For Respondents: Mr.J.Narayanasamy, SSC

O R D E R

When the petitioner had made an application seeking for a waiver of interest under Section 234B and 234C of the Income Tax Act, the same came to be rejected, through the impugned order dated 25.10.2011.

2. It is the submission of the learned counsel for the petitioner that in a Tax Case (Appeal) No.1407 of 2009, the Division Bench of this Court had passed the order as follows:

4. On a perusal, it is clear that in respect of

the other co-shares in I.T.A.No.1856/Mds/2007 dated 14.03.2008, the Tribunal has upheld the order of the Commissioner of Income Tax (Appeals), wherein fair market value has been adopted at Rs.225/- per sq.ft. The same amount has been adopted in the case of assessee also. In the absence of any other distinguishing factor or any other additional factor placed before us or argued before us to take a different view, we are not able to see any question of law, much less substantial question of law in this case for determination. Hence, this appeal is dismissed. No costs.

3. The petitioner herein is also a co-sharer in the property, which is the subject matter in Tax Case (Appeal) No.1407 of 2009. As such, if the order of the Division Bench in the aforesaid Tax Case Appeal is taken into account, there could be a due consideration in favour of the petitioner for the purpose of waiving the interest. It is also brought to the notice of this Court that the petitioner is a senior citizen and as such, it would be appropriate to remand the matter back to the respondent and stipulate a time limit for concluding the proceedings afresh.

4. In the light of the above observations, the impugned order dated 25.10.2011, is set aside and the matter is remanded back to the first respondent herein for fresh consideration. The petitioner is also at liberty to produce the copies of the Tax Case Appeal along with additional objections, if any. The first respondent herein shall consider all the materials and objections placed by the petitioner afresh and pass final orders, after giving due opportunity of personal hearing to the petitioner, as expeditiously as possible, in any event, within a period of 4 weeks from the date of receipt of a copy of this order.

5. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Insp Cell)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Chief Commissioner of Income Tax-V,
   121, Mahatma Gandhi Road,
   Nungambakkam,
   Chennai - 600034.

2. The Assistant Commissioner of Income Tax,
   Business Circle XIV,
   121, Mahatma Gandhi Road,
   Nungambakkam,
   Chennai - 600034.

+1cc to Mr.J.Narayanaswamy, Advocate, S.R.No. 69414

W.P.No.9157 of 2012
and
M.P.No.1 of 2012

VSN II(CO)
GN(19/08/2019)