IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.32827 of 2019
and
W.M.P.No.33255 of 2019

Sankaranarayanan Rajshekar ...Petitioner

Vs.

1. Deputy Commissioner of Income Tax,
   Non Corporate Ward 17(1),
   514, BSNL Building,
   5th Floor,
   No.16, Greams Road,
   Chennai.

2. Centralized Processing Centre,
   1st Floor Prestige Alpha,
   Beratenaagrahara,
   Begur, Hobli,
   Bangalore.

3. Kingfisher Airlines Limited,
   UB Tower, Level 12, UB City,
   No.24, Vittal Mallya Road,
   Bangalore – 560001.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari filed Mandamus to call for the records Comprised in the order of the first respondent under section 143(1) of the Income Tax act 1961, in PAN AAPPS0654K dated 22/02/2011 for the Assessment year 2009-2010 on the file of the 1st Respondent, quash the same and direct the first respondent to accept the return of Income filed by the Petitioner.

For Petitioner : Mr.N.V.Balaji

For Respondents : Mrs.Hema Muralikrishnan
Senior Standing Counsel

ORDER

Mrs.Hema Muralikrishnan, learned Senior Standing Counsel takes notice for the respondents. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. The challenge made in this writ petition is against an intimation issued to the petitioner under Section 143(1) of the Income Tax Act, 1961 dated 22.02.2011. Since this writ petition is being disposed of at the time of admission stage itself without affecting the interest of either parties, notice to the third respondent is dispensed with.

3. The case of the petitioner in short is follows :-
He was working as a Pilot under the third respondent. In respect of the Assessment Year 2009-10, the petitioner received salary from the third respondent after making tax deduction. The third respondent failed to pay the deducted at source on the salary of the petitioner to the credit of the Revenue. While that being so, the first respondent while processing the return filed by the petitioner for the Assessment Year 2009-10 raised a demand of Rs.6,15,340/- which is nothing but tax already deducted from the petitioner's salary by the third respondent. Therefore, it is stated that the first respondent is not entitled to make such demand against the salary of the petitioner, as it is for them to recover such tax deducted at source from the third respondent, who had already deducted such tax from the salary of the petitioner.

4. This Court, considered the above submissions and also perused the materials placed before this Court. The challenge made in this writ petition is against the proceedings of the year 2011. However, it is seen that the petitioner seems to have made repeated request by way of rectification petition before the first respondent and the last of such application was made on 07.03.2018. It is stated that the said application has not been disposed of so far. Therefore, this Court, is of the view that instead of keeping this matter pending, it is better to direct the first respondent to consider

the rectification petition filed by the petitioner and pass orders on the same on merits and in accordance of law.

5. Thus, this writ petition is disposed of, only by directing the first respondent to consider the said application dated 07.03.2018 filed under Section 143(1) of the Income Tax Act, 1961 and pass orders on the same on merits and in accordance with law, after giving an opportunity of hearing to the petitioner. Such exercise shall be done by the first respondent within a period of eight weeks from the date of receipt of a copy of this order. Till an order is passed by the first respondent no coercive action shall be initiated against the petitioner to recover the disputed dues. No costs. Connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS V)

/true copy/
Sub Asst. Registrar

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To

1. Deputy Commissioner of Income Tax,
Non Corporate Ward 17(1),
514, BSNL Building,
5th Floor,
No.16, Greams Road,
Chennai.

2. Centralized Processing Centre,
1st Floor Prestige Alpha,
Beratenaagrahara,
Begur, Hobli,
Bangalore.

+1 cc to M/s.Hema Muralikrishnan Advocate sr97956
+2 ccs to M/s.N.V.Balaji Advocate sr98147,97670

W.P.No.32827 of 2019

aa09/01/2020