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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 30.04.2019
CORAM:
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE
W.P.[MD]No.11347 of 2019
and
W.M.P.[MD]Nos.8647 & 8648 of 2019

N.Ramesh : Petitioner

Vs.

1.The Valuation Officer,
Valuation Cell, Income Tax Department,
Central Revenue Building 2nd Floor,
No.2, VP.Rathinasamy Nadar Road, Bibikulam,
Madurai - 625 002.

2.The Income Tax Officer,
Tax Officer Ward - 3(2),
Thiruchirapalli. : Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned valuation report issued by the first respondents proceedings in No.EE(V)/MDU/IT/2347/2018-19/839, dated 25.03.2019 and proceedings in No.EE(V)/MDU/2347/IT/2019-2020/848, dated 10.04.2019 and the consequential proceedings of the second respondent vide PAN:AAFPR8075H/AY:2012-13, dated 22.04.2019 consequently direct the respondents herein to afford petitioner a reasonable opportunity of hearing and to raise objections by furnishing copies of all documents and materials relied on by the respondents.

For Petitioner : Mr.VR.Shanmuganathan

For Respondents : Mr.N.Dilip Kumar
Standing Counsel

O R D E R

The instant Writ Petition has been filed challenging the proceedings dated 25.03.2019 of the first respondent and the proceedings dated 10.04.2019 of the second respondent and the consequential proceedings dated 22.04.2019 of the second respondent and consequently direct the respondents to afford the petitioner a reasonable opportunity of hearing and to raise objections by furnishing copies of all documents and materials relied upon by the respondents.

2.It is the case of the petitioner that he had filed returns before the Income Tax Department for the assessment year 2012-13 fixing the sale of the property in Ward C, Block 19, T.S.No.7/1 at Kodaikanal Town. As per the said return, the petitioner and other

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co-owners jointly received the sale consideration of Rs.1,00,21,000/- from the purchasers. The petitioner's share was Rs.18,03,780/- and his wife Chitra Ramesh's share was Rs.48,50,164/- and his brother-in-law Ramanan's share Rs.33,67,056/-. By order dated 26.10.2015, the petitioner was called upon to the office of the second respondent for some clarification relating to the said value of the aforesaid property. According to the petitioner, by proceedings dated 26.09.2016, the petitioner was called upon to furnish documents and particulars regarding the aforesaid sale and the second respondent alleged in the said proceedings that the market value of the property is Rs.1,33,23,500/- and not Rs.1,21,00,000/- as disclosed in the original return of income filed by the petitioner. Thereafter, according to the petitioner, he has produced all the particulars required by the Income Tax Department to them.

3.According to the petitioner, an enquiry was also also held on 17.08.2016 pursuant to notice dated 15.07.2016 issued under Section 142(1) of the Income Tax Act, 1961 for reopening assessment. The petitioner requested the second respondent to refer the matter to the Valuation Cell of the Department. According to the petitioner, acceding to the request, the second respondent also referred the matter to their valuation cell. According to the petitioner, the second respondent after referring the issue to the valuation cell of the department on 11.11.2016 under Section 50C and 55A of the Income Tax, had by proceedings dated 30.12.2016 completed the assessment for the year 2012-13 under Section 143 of the Income Tax Act.

4.According to the petitioner, the first respondent issued enquiry notice on 24.11.2016, calling upon the petitioner to appear on 05.12.2016, thereafter, he appeared and furnished all the documents and details required by the first respondent. But all of a sudden, on 25.03.2019, it was informed by the first respondent that he inspected the site on 06.09.2018 and that from the perusal of documents he had arrived at the market value of the properties as on 14.11.2011 and called upon the petitioner to raise objections, if any, by 09.04.2019. The petitioner sent a reply dated 06.04.2019, seeking for further time to file his objections. However, according to the petitioner, by proceedings dated 10.04.2019, his request for further time was denied and the first respondent had referred the matter back to the second respondent.

5.According to the petitioner, the first respondent by proceedings dated 22.04.2019, had informed the petitioner that he had already received the valuation report. By the same proceedings, the copy of the preliminary report was also attached. Therefore, according to the petitioner, he was not given adequate opportunity to raise objections to the valuation report obtained from the valuation cell of the respondent. In such circumstances, the instant Writ Petition has been filed, challenging the impugned proceedings.

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6.Heard Mr.VR.Shanmuganathan, learned Counsel for the petitioner and Mr.N.Dilip Kumar, learned Standing Counsel for the respondents.

7.Admittedly, no assessment order has been passed by the respondents pursuant to the reopening of the assessment for the assessment year 2012-2013. None of the impugned proceedings are final orders passed by the respondents. The first impugned proceeding dated 25.03.2019 is a notice calling upon the petitioner to raise objections to the valuation report. The second impugned proceedings dated 10.04.2019 is the valuation report obtained by the respondent for the property which was sold by the petitioner. The third impugned proceedings is the communication sent by the second respondent enclosing the valuation report, for the property. Excepting for finalisation of the valuation report by the respondents, no assessment order has been passed.

8.According to the petitioner, adequate opportunity ought to have been given to him before finalisation of the valuation report. It is his case that arbitrarily the respondents have rejected the request made by the petitioner for extension of time to submit his objections for the valuation report by letter dated 06.04.2019 and by the impugned proceedings dated 10.04.2019 within three days thereafter, the respondent has finalised the valuation report, which discloses a higher value than what was disclosed by the petitioner in the original return of income filed by him. It is always open to the petitioner to furnish a fresh valuation and submit the same in the assessment proceedings. The respondent cannot have any objection if such a valuation report is produced by the petitioner to establish that the valuation of the property disclosed in his original return of income is the correct valuation in the assessment proceedings. But, it is for the assessing officer to consider all the documentary evidence placed by both the revenue as well as the assessee namely, the petitioner herein objectively and independently in accordance with law and pass an assessment order thereafter.

9.In the light of the above observations, this Court is of the considered view that the impugned proceedings no way will cause prejudice to the petitioner as it is always open to the petitioner to raise all objections available to him under law in the assessment proceedings before the assessing officer. However, the assessing officer shall consider all the objections raised by the petitioner regarding the valuation of the aforesaid property including granting him the opportunity to file a valuation report to establish that the value declared by him under the original return of income is the correct value and not the value as determined by the first respondent.

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10.With the aforesaid direction, the Writ Petition is disposed of. However, the second respondent is directed to furnish copies of all the five documents referred to in the impugned valuation report to the petitioner within a period of four [4] weeks from the date of receipt of a copy of the order. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar

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Sub Assistant Registrar(CS)

To
1.The Valuation Officer,
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Central Revenue Building 2nd Floor,
No.2, VP.Rathinasamy Nadar Road, Bibikulam,
Madurai - 625 002.

2.The Income Tax Officer,
Tax Officer Ward - 3(2),
Thiruchirapalli.

+1 CC to M/s.VR.SHANMUGANATHAN, Advocate (SR-64340[F] dated 30/04/2019)

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-64787[F] dated 02/05/2019)

ORDER MADE IN
W.P.[MD]No.11347 of 2019
30.04.2019

CS: 28/05/2019/4P/5C

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