



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.12.2020**

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P(MD).No.3803 of 2020

and W.M.P.(MD).Nos.3220 and 13268 of 2020

WEB COPY

Rengarajan Velusamy

... Petitioner

Vs.

The Income Tax Officer,

Office of the Income Tax Officer,

Ward 3, Madura Coats Compound, Railway feeder Road,

Virudhunagar.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Certiorari Mandamus, to call for the records pursuant to the impugned assessment order passed by the respondent vide ITBA / AST / S/ 143(3) / 2019-20 / 1023100313(1), dated 26.12.2019 and quash the same and consequently issue a direction to the respondent to re-assess the Income Tax assessment of the petitioner, for the period 2017-2018, after giving opportunity to the petitioner.

For Petitioner

: Mr.Lakshmi Gopinathan

For Respondents

: Mr.S.Srimathy

Senior Standing Counsel

ORDER

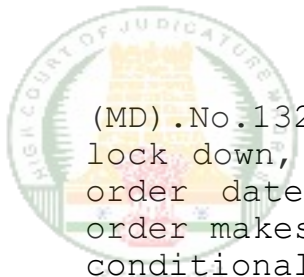
(This Matter was heard through the Video Conference)

This Writ Petition has been filed challenging the impugned assessment order passed by the respondent vide ITBA / AST / S/ 143 (3) / 2019-20 / 1023100313(1), dated 26.12.2019.

2.Heard Mr.Lakshmi Gopinathan, learned counsel for the petitioner and Mrs.S.Srimathy, learned Standing Counsel appearing for the respondent.

3.This Court by its order dated 25.02.2020, in W.M.P.(MD). No.3220 of 2020 in W.P.(MD).No.3803 of 2020, granted stay of the impugned assessment order on condition that the petitioner pays the 50% of the tax component to the respondent, within a period of four weeks from the date of receipt of a copy of the said order, failing which, this Court had made it clear that the interim stay granted shall stand automatically vacated without any further reference to this Court.

4.The learned counsel for the petitioner has submitted before this Court that the interim order dated 25.02.2020, has not been complied with. However, an application, seeking for extension of time to comply with the conditional order has been filed in W.M.P.



(MD).No.13268 of 2020, wherein it has been stated that due to the lock down, the petitioner was unable to comply with the conditional order dated 25.02.2020, passed by this Court. When the earlier order makes it clear that if the petitioner fails to comply with the conditional order, interim stay granted shall automatically got vacated, this Court cannot grant any further indulgence to the petitioner to comply with the conditional order. Therefore, the W.M.P.(MD).No.13268 of 2020 filed by the petitioner, seeking extension of time for compliance of the conditional order dated 25.02.2020, does not deserve merit and is rejected.

5.At this juncture, the learned counsel for the petitioner on instructions, would submit that the petitioner may be granted liberty to file an appeal as against the impugned assessment order along with a delay condonation application, before the appellate authority.

6.In view of the submission made by the learned counsel for the petitioner, this Court directs the petitioner to approach the appellate authority by way of a statutory appeal, if aggrieved by the impugned assessment order in accordance with law, along with the delay condonation application. The appellate authority shall consider the delay condonation application to be filed by the petitioner to file the statutory appeal, by taking into consideration the period of pendency of this writ petition.

7.With the aforesaid direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition in W.M.P.(MD).No.3220 of 2020 is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

TM

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

+1 CC to M/s.S.SRIMATHY, Advocate (SR-24794[F] dated 10/12/2020)

+1 CC to M/s.POLAX LEGAL SOLUTION, Advocate (SR-25181[F] dated 11/12/2020)

W.P (MD) .No.3803 of 2020

09.12.2020

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