IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.2741, 2747 & 2750 of 2020
and
WMP. Nos.3198, 3196, 3189, 3190, 3194 & 3200 of 2020

Kanagasabai Somasundaram
... Petitioner in W.P. No.2741 of 2020

Prabhu
... Petitioner in W.P. No.2747 of 2020

Arcot Loganathan Ravi
... Petitioner in W.P. No.2750 of 2020

Vs

1. Income Tax Officer,
   Income Tax Deparment,
   Ward I Thiruvannamalai,
   25 Valayakara Street,
   Thiruvannamalai District 606 601.

2. Joint Commissioner of Income Tax,
   Income Tax Department, Vellore range,
   Vellore District 632 401

... Respondents in the above WPs

COMMON PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, to call for the records of the 1st Respondent relating to the impugned assessment order vide ITBA/AST/S/144/2019-20/1023257679(1), 1023055404(1) & 1022726688 (1) dated 27.12.2019, 25.12.2019 & 20.12.2019 respectively for the assessment year 2017-18, quash the same as illegal, arbitrary and devoid of merit.

For Petitioner : Mr.Salai Varun in the above Wps

For Respondents : Mr.A.P.Srinivas,
Senior Standing Counsel in the above Wps

COMMON ORDER

Common Order is passed in these writ petitions insofar the common issue raised and argued relates to the violation of principles of natural justice, leading to passing of best judgment assessments under Section 144 of the Income Tax Act, 1961 (in short 'Act'). Assessments have been initiated in respect of the three petitioners before me for assessment year (AY) 2017-18.

2. In W.P. No.2747 of 2020, the impugned order of assessment has been preceded by a show cause notice dated 20.09.2019 calling upon the assessee to furnish certain details. The order, dated 25.12.2019 records non-compliance of the petitioner to the show cause notice issued. However, a response to the notice has been uploaded on 09.10.2019, (page Nos.25 to 29 of the typed-set filed in support of the writ petition). Clearly, the Officer is in error in proceeding as though no explanation has been setforth by the assessee.

3. In W.P. No.2750 of 2020, the show cause notice is dated 19.07.2019 and the impugned order of assessment is dated 20.12.2019. The Officer proceeds, in this case as well, as though there had been no compliance to the pre-assessment notice issued. My attention is drawn to two responses filed by the petitioner, one dated 07.08.2019 (placed at page 26 of the typed-set) and the second, dated 15.11.2019 (at page 27 of the typed-set) wherein the petitioner has setforth its explanation to the pre-assessment proposals enclosing supporting documents such as returns filed under the Tamil Nadu Value Added Tax Act, 2006. In this case also, the impugned order of assessment has been passed ignoring the responses filed by the petitioner and on an erroneous understanding that there has been no compliance to the show cause notice.

4. Coming to W.P. No.2741 of 2020, two show cause notices have been issued dated 08.08.2019 and 20.09.2019 and the Officer, here too, proceeds on the basis that there has been no response. However, two responses have been filed by the petitioner, one filed on 17.09.2019 at page 12 of the typed-set and the second on 26.09.2019 by way of additional typed set dated 26.04.2021. In this case as well, the Officer proceeded on an erroneous understanding that there was no reply filed by the assessee.

5. The common issue that arises is violation of the principles of natural justice, wherein, ignoring responses filed by the assessee to the show cause notices issued, the Assessing Authority has simply followed the directions of the Joint Commissioner, Income Tax, in computing the tax liability of the petitioners.

6. In light of the discussion as above, the impugned orders of assessment are set aside and the Writ Petitions allowed. Connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rkp

To

1. Income Tax Officer,
   Income Tax Deparment,
   Ward I Thiruvannamalai,
   25 Valayakara Street,
   Thiruvannamalai District 606 601.

2. Joint Commissioner of Income Tax,
   Income Tax Department, Vellore range,
   Vellore District 632 401.

+3cc to Mr.A.P.Srinivas, Advocate, S.R.No.28861,28862,28863.

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and
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PL(CO)
HS(26/07/2021)