

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 01.04.2021
CORAM:

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No. 8379 of 2021
and
W.M.P.Nos. 8932 & 8934 of 2021

Antony Alphonse Kevin Alphonse,
S/o.Antony Alphonse

... Petitioner

Vs

1. The Income Tax Officer,
National e-Assessment Centre,
Income Tax Department,
Ministry of Finance,
Room No.401, 2nd Floor,
E-Ramp, Jawarharlal Nehru Stadium,
Delhi - 110 003.
2. The Income Tax Officer,
Non-Corporate Ward-4(1),
Income Tax Office,
66 & 67 Race Course Road,
Coimbatore - 641 012.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records in DIN: ITBA/AST/S/143(3)/2020-21/1031489202 (1) dated 15.03.2021 on the file of the 1st Respondent relating to the Assessment Year 2018-2019 and quash the same.

For Petitioner : Mr.G.Baskar
For Respondents : Mr.A.P.Srinivas
Senior Standing Counsel

ORDER

The petitioner has challenged the impugned order dated 15.03.2021 which has been digitally signed by the second respondent at about 16:22:33 hours on the said date. In other words, the impugned order has been passed at about 4.22 PM in the evening on 15.03.2021.

2. The impugned order dated 15.03.2021 passed by the second respondent preceded a Show Cause Notice dated 04.03.2021. As per the said notice, the petitioner was required to file a reply on or before the end of the day on 15.03.2021 by 23.59 hours. In other words, the reply of the petitioner was to be filed digitally latest by 11.59 PM in the night.

3. It is the case of the petitioner that the petitioner had also sent a reply before the deadline for filing the reply had expired on 15.03.2021 and therefore the impugned order passed by the second respondent was liable to be quashed. Opposing the prayer in the writ petition for quashing the impugned order dated 15.03.2021 passed by the second respondent, learned senior standing counsel for Income Tax Department submits that the petitioner has an alternate remedy by way of an appeal before the Appellate Commissioner and therefore the writ petition is liable to be dismissed.

4. I have considered the arguments advanced by the learned counsel for the petitioner and the learned senior standing counsel for the respondents.

5. Since the impugned order has been passed before the time prescribed for filing the reply, it is evident that the impugned order has been passed with pre-set mind. In any event, the order has been passed without considering the reply received from the petitioner. Therefore, this Court is inclined to grant the relief sought for by the petitioner as there is a manifest violation of business of justice while passing the impugned order.

6. Under these circumstances, the impugned order stands quashed and the case is remitted back to the second respondent to pass a speaking order on merits in accordance with law after considering the reply filed by the petitioner on 15.03.2021.

7. This Writ Petition stands disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

arb

To

1. The Income Tax Officer,
National e-Assessment Centre,
Income Tax Department,
Ministry of Finance, Room No.401, 2nd Floor,
E-Ramp, Jawarharlal Nehru Stadium, Delhi - 110 003.
2. The Income Tax Officer,
Non-Corporate Ward-4(1),
Income Tax Office, 66 & 67 Race Course Road,
Coimbatore - 641 012.

+1cc to Mr.G.Baskar , Advocate SR.No. 21745

+1cc to Mr.A.P.Srinivas, Advocate SR.No. 21761

W.P.No. 8379 of 2021

and W.M.P.Nos. 8932 & 8934 of 2021