IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH
W.P. No.10640 of 2021
& WMP Nos.11259 and 11260 of 2021

Annamalai Ganesh ...Petitioner

Vs.

1.Income Tax Officer,
Income Tax Department,
Ward II Vellore,
No.2 Barrcks Cross Road, Officers Line,
Vellore - 632 001.

2.Income Tax Officer,
Income Tax Department,
Ward II, Thiruvannamalai District,
No.25 Valayalkara Street,
Thiruvannamalai - 606 601.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus calling for the records of the 2nd respondent relating to the impugned order of assessment vide Order No.ITBA/AST/S/144/2019-20/1021908674(1) dated 08.12.2019 for the assessment year 2017-18 passed by the 2nd respondent and the consequent impugned order of the 1st respondent vide ITBA/REC/S/155_1/2020-21/1027550962(1) dated 21.07.2020, quash the same as illegal, arbitrary and devoid of merit and direct the 1st respondent to conduct a fresh assessment of the income of petitioner.

For Petitioner : Mr.Salai Varun
For Respondents : Mr.Prabu Mukund Arunkumar
Junior Standing Counsel - R1
Mr.ANR.Jayaprathap
Junior Standing Counsel - R2

O R D E R

Mr.Prabu Mukund Arun Kumar, learned Junior Standing Counsel accepts notice for R1 and Mr.ANR.Jayaprathap, learned Junior Standing Counsel accepts notice for R2. Both learned counsel have been served with a copy of the Writ Petition and its annexures and are ready to proceed with the matter finally, even at the stage of admission. Hence, by consent of both sides, this Writ Petition is disposed finally, even at this stage. Learned respondent counsel do not have much to say in the light of the submissions made by the learned counsel for the petitioner, as recorded by me in the paragraphs to follow.

2. The petitioner challenges an order of assessment dated 08.12.2019 passed in terms of the provisions of the Income Tax Act, 1961 (in short 'Act') by R2, who is the Income Tax Officer at Thiruvannamalai, and the order subsequently rectifying the assessment under Section 154 on 21.07.2020 passed by the Income Tax Officer, Vellore/R1.

3. The sole ground raised and argued before me is that the impugned order, passed under Section 144 of the Act to the best of the Assessing Officer's judgment, greatly prejudices the petitioner. Non-appearance was on account of the fact that his father had suffered a traumatic road accident in March, 2017, which rendered him brain dead. A medical certificate dated 17.03.2016 has been issued by the Department of Neurological Sciences, Christian Medical College, Vellore certifying that, pursuant to the road accident on 02.03.2016, the petitioner's father had suffered traumatic brain injury and there has been neurological damage caused, associated with loss of memory. The discharge summary is dated 01.08.2017 and the petitioner states that his father is being taken care at home, though in a vegetative state. He would only pray that he be granted one more opportunity to appear before the Assessing Officer and make his submissions.

4. I note that there has been a hiatus of two years between the discharge of the petitioner's father and the issuance of notice by the Assessing Officer prior to framing of assessment, vide order dated 08.12.2019. However, taking a humanitarian view of the matter, to which there is no serious opposition put forth by the learned counsel for the respondents, I am of the view that substantial interests of justice would require permitting the petitioner to cause appearance before the Assessing Officer/R2 and put forth his submission. The files for assessment of the petitioner appear to have been transferred from R1 to R2. No challenge is put forth to the transfer of files from R1 to R2.

5. Thus the impugned order and the consequent rectification are set aside. The petitioner will appear before R2 along with all/necessary materials in support of his stand on Wednesday, the 12th of May, 2021 at 10.30 a.m. without expecting any further notice in this regard, either virtually or by way of physical hearing, as may be mutually convenient to the parties and bearing in mind the Standard Operating Procedures that are in force at the relevant point of time. After hearing the

petitioner and taking into consideration all/any materials that may be filed by the petitioner, an order of assessment shall be passed de novo within a period of six (6) weeks from the date of first hearing.

6. This Writ Petition is disposed in the aforesaid terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1.Income Tax Officer,
Income Tax Department,
Ward II Vellore,
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Vellore - 632 001.

2.Income Tax Officer,
Income Tax Department,
Ward II, Thiruvannamalai District,
No.25 Valayalkara Street,
Thiruvannamalai - 606 601.

+cc to M/s.A.P.Srinivas Sr Standing Counsel(Income tax), Casr 25952
+cc to M/s.Hema MuraliKrishnan Sr Standing Counsel, Casr 26153

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SSN(CO)
baf 05/05/2021