IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

WP.No.17506 of 2021
and
WMP.Nos.18605, 18608 & 24590 of 2021

[Video Conferencing]

Abdul Azeez Rahamathunisa
No.5, Moores Road
Thousand Lights
Chennai - 600 006.
PAN : AADPR3041B ...Petitioner

-Vs.-

1. The Assistant Commissioner of Income Tax
National e-Assessment Centre, Delhi
Room No.401, 2nd Floor,
E-Ramp, Jawaharlal Nehru Stadium
Delhi - 110 003.

2. The Income Tax Officer
Non Corporate Ward - 3(1), Chennai
Income Tax Department
121, Nungambakkam High Road
Nungambakkam
Chennai - 600 034.

3. The Principal Commissioner of Income Tax
Chennai - 4
Income Tax Department
121, Nungambakkam High Road
Nungambakkam
Chennai - 600 034. ...Respondents

Prayer :-

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the Writ Petitioner on the file of the first respondent to quash the impugned order dated 31.05.2021 passed u/s 147 r.w.s 144 of the Act for the Assessment Year 2013-14 in ITBA/AST/S/147/2021-22/1033186633(1) and consequently direct the first respondent to complete the fresh assessment for the assessment year 2013-14 after granting reasonable/sufficient opportunity of hearing.

For Petitioner : Mr.A.S.Sriraman

For Respondents : Mrs.Hema Muralikrishnan,
Senior Standing Counsel

ORDER

The petitioner has challenged the impugned assessment order dated 31.05.2021 on the ground that the aforesaid order was not preceded with the issuance of a show cause notice and draft assessment order as is contemplated under Section 144B of the Income Tax Act, 1961 which came into effect from 01.04.2021.

2.The learned counsel for the petitioner submits that the petitioner is a senior citizen residing in Dubai and that there was a bereavement and that the petitioner herself contracted COVID at the time, when three notices were issued under Section 142(1) of the Income Tax Act, 1961 on 10.03.2021, 05.04.2021 and 30.04.2021.

3.Opposing the prayer sought for in this Writ Petition, the learned Senior Standing Counsel for the respondents would submit that the petitioner has an alternate remedy under Section 246(A) of the Income Tax Act, 1961 and that the notices referred to in the typed set of documents filed by the petitioner are not the only notices which were issued to the petitioner but also to authorized representative of the petitioner. It is submitted that earlier also several notices were issued which were not replied and therefore, there is no merits in this Writ Petition.

4.Heard the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents. Perused the affidavit filed in support of the Writ Petition and also the typed set of documents.

5.The petitioner is an octogenarian aged about 80 years. The petitioner had suffered personal bereavement on account of death of her Power Holder who was taking care of the petitioner's requirements as the petitioner is a NRI.

6.Considering the fact that the impugned order has been passed without issuance of a show cause notice and mandatory draft assessment order, the impugned order passed by the first respondent cannot be sustained.

7.Considering the same, this Writ Petition is allowed by quashing the impugned order. The case is remitted back to the first respondent to pass a speaking order within a period of 60 days from the date of receipt of a copy of this order. The impugned order which stands quashed by this order shall be treated as a show cause notice and draft assessment order.

8.The respondents are also given liberty to issue corrigendum, if any within a period of 15 days from the date of receipt of a copy of this order. The petitioner shall give appropriate reply within a period of 30 days thereafter. The first respondent shall pass the final order preferably before the expiry of 60 days from the date of receipt of a copy of this order. The respondents are directed to suitably direct the administrator of the Web Portal to facilitate the petitioner to file reply and to attend personal hearing through Video Conferencing either by herself or by her authorized representative.

9.The Writ Petition stands allowed in terms of the above observations. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

pgp

To

1. The Assistant Commissioner of Income Tax
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   Chennai – 4
   Income Tax Department,
   121, Nungambakkam High Road,
   Nungambakkam,
   Chennai – 600 034.

+1cc to Mrs.Hema Muralikrishnan, Advocate SR. No.65951

W.P.No.17506 of 2021

CA (CO)
PR (12/01/2022)