IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2021

CORAM

THE HON'BLE Mr.JUSTICE M.SUNDAR

W.P.No.22807 of 2021
and
W.M.P.No.24034 of 2021

Anuradha,
W/o.Saravanan. ...Petitioner

-Vs.-

The Income Tax Officer (Ward 1),
Office of the Income Tax Officer Ward 1,
No.1, Chairman Subbrayar Street,
West Shanmugapuram,
Villupuram. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the impugned assessment order dated 28.09.2021 made in DIN & Document No.ITBA/AST/M/147/2021-22/1035985593(1), quash the same.

For Petitioner : Mr.D.R.Arun Kumar

For Respondent : Mr.A.P.Srinivas
Senior standing counsel
for Income Tax

O R D E R

Captioned main writ petition has been filed assailing an assessment order under Section 144 read with Section 147 of 'The Income-tax Act, 1961 (43 of 1961)' [hereinafter 'IT Act' for the sake of brevity].

2. Mr.D.R.Arun Kumar, learned counsel for writ petitioner, adverting to electronic mail cover communication dated 28.09.2021 submits that impugned order is dated 28.09.2021, though column No.12 in the impugned order is blank.

3. Be that as it may, it is submitted that as part of scrutiny assessment for 'assessment year 2012-2013' [hereinafter 'said AY' for the sake of convenience and clarity], writ

petitioner was requested to submit details vide notice dated 20.09.2021 which this Court is informed is under Section 142(1) of IT Act. Writ petitioner sent a detailed reply vide e-proceedings response acknowledgment on 20.09.2021 itself. Adverting to this reply, learned counsel for writ petitioner submits that writ petitioner comes from disadvantaged economic background and is enrolled in the Mahatma Gandhi National Rural Employment Scheme. It is also submitted that the writ petitioner, with the intention of augmenting her income had inter alia purchased some tractors in public auction and sold the same to agriculturists/farmers and the monies were deposited in her bank account. To be noted, inter alia this has been articulated in writ petitioner's reply dated 20.09.2021. More importantly, writ petitioner has filed affidavits which according to the writ petitioner are affidavits from various farmers, who have purchased these tractors from writ petitioner. Notwithstanding all this, though the impugned order says that the reply of the writ petitioner-assessee has been perused, there is nothing to demonstrate that the affidavits or supporting material have been considered. Adverting to paragraph No.4 of the impugned order, learned counsel submits that it is not just terse but it is laconic and learned counsel says that reason is the soul of an assessment order but is absent in impugned order.

4. This Court, without expressing any opinion about the manner in which reply has been considered, considering the peculiar facts and circumstances of the case on hand, which has been alluded to supra, deems it appropriate as a one off matter to be sent back to the respondent for re-doing the assessment by considering support affidavit and other documents filed by writ petitioner qua deposits she has made. The reason as to why these documents satisfactorily explain the deposits or not shall be set out in the assessment order when it is made de novo.

5. Mr.A.P.Srinivas, learned senior standing counsel for Income Tax accepts notice on behalf of the lone respondent and owing to short and narrow compass on which the captioned writ petition turns, with the consent of learned counsel on both sides, the main writ petition was taken up.

6. Learned Revenue counsel submitted that all questions may be left open and it is not a case where reply of the assessee has not been considered at all. The case on hand is a case of non-consideration of support materials and not giving any reason as to why reply is unacceptable, leading to conclusion that the deposits have not been satisfactorily explained. Respondent may have considered, as contended by learned Revenue counsel, but the point remains that it could have been set out if not eloquently articulated in the impugned order as already

delineated to supra. Considering the unique facts and circumstances of the case as a one off matter, captioned writ petition is sent back to respondent.

7. Captioned writ petition is disposed of by making the following orders:

(a) Impugned order dated 28.09.2021 bearing reference DIN & Document No.ITBA/AST/S/91/2021-22/1035993032(1) is set aside solely for the purpose of facilitating the respondent to redo the assessment by considering what according to writ petitioner inter-alia support affidavit;

(b) The sequitur to the above limb is, though obvious, it is made clear that this Court has not expressed any view or opinion on the merits of the matter;

(c) Respondent shall take into account the supporting material, more particularly material in support of 20.09.2021 response of writ petitioner and make the assessment order de novo giving reasons for the conclusion;

(d) The above de novo shall be commenced forthwith and concluded as expeditiously as business of respondent would permit and in any event within four weeks from today i.e., on or before 22.11.2021;

8. Captioned Writ Petition is disposed of with the above directives. Consequently, captioned writ miscellaneous petition is also disposed of as closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mk/nsa

To

The Income Tax Officer (Ward 1),
Office of the Income Tax Officer Ward 1,
No.1, Chairman Subbrayar Street,
West Shanmugapuram, Villupuram.

+1cc to M/s.D.R.Arunkumar, Advocate Sr.54551
+1cc to Mr.A.P.Srinivas, Advocate Sr.54984

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and
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pch[co]
srg 09/11/2021