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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.25802 of 2021
and
W.M.P.Nos.27259 & 27261 of 2021

(Through Video Conferencing)

Nehru Matriculation Higher Secondary School
Teachers' Welfare Association,
(PAN : AABAN9019N),
Represented by its Secretary Ms.R.Mini,
No.10, Anna Street,
T.S.R. Nagar, Thiruvottiyur,
Chennai - 600 019. ... Petitioner

Vs

1.The Additional/Joint/Deputy/
Assistant Commissioner of Income Tax,
Income Tax Officer,
Ministry of Finance,
Income Tax Department,
National Faceless Assessment Centre,
North Block, New Delhi - 110 001.

2.The Income Tax Officer,
Non-Corporate Ward - 5(2),
II Floor, BSNL Building,
Greams Road, Chennai - 600 006. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the impugned order of the first respondent in PAN No.AABAN9019N dated 29.09.2021 for the Assessment Year 2013-2014 and quash the same as illegal, arbitrary and against the principles of natural justice and also against the provisions of the Act.

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For Petitioner : Mr.K.Soundararajan

For Respondents : Mr.Prabhu Mukunth Arunkumar
Junior Standing Counsel

ORDER

Mr.Prabhu Mukunth Arunkumar, learned Junior Standing Counsel takes notice on behalf of the respondents.

2. This Writ Petition is disposed at the time of admission considering the fact that the impugned order has been passed by referring to an account of some other person and it has been concluded that there was a huge receipt of income in the hands of the petitioner. Though the learned Junior Standing Counsel for the respondents would submit that after a notice under Section 148 of the Income Tax Act, 1961 was issued to the petitioner, there was no response from the petitioner to the repeated notices issued and that a Show Cause Notice together with Draft Assessment Order was also issued to the petitioner on 23.09.2021 with a request to the petitioner to respond by 26.09.2021, the facts indicate that the petitioner has been all along exempt from payment of tax in terms of Section 10(23C) (iiiad) of the Income Tax Act, 1961.

3. Though the petitioner has an alternate remedy before the Appellate Commissioner, this Court is of the view that the Appellate Commissioner may also have to set aside the impugned order as the petitioner has also not replied to the notices issued under the Income Tax Act including the Show Cause Notice and the Draft Assessment Order.

4. Considering the fact that the petitioner was all along exempted from payment of tax, the case is remitted back to the respondents to pass a speaking order within a period of sixty days from the date of receipt of a copy of this order.

5. The respondents are also directed to issue appropriate instructions to the Administrator of the Web Portal to facilitate the petitioner to file a reply/representation to the Show Cause Notice/Draft Assessment Order sent to the petitioner on 23.09.2021. The petitioner shall make such reply/representation within a period of fifteen days from the date of receipt of a copy of this order.

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

Sd/-
Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

arb/nst

To

1.The Additional/Joint/Deputy/
Assistant Commissioner of Income Tax,
Income Tax Officer,
Ministry of Finance,
Income Tax Department,
National Faceless Assessment Centre,
North Block, New Delhi – 110 001.

2.The Income Tax Officer,
Non-Corporate Ward – 5(2),
II Floor, BSNL Building,
Greams Road, Chennai – 600 006.

+1cc to Mr.K.Soundararajan, Advocate SR.No.64453
+1cc to M/s.Hema Muralikrishnan, Advocate SR.No.64755

W.P.No.25802 of 2021
and
W.M.P.Nos.27259 & 27261 of 2021

GPL(CO)
CB(20/12/2021)

https://hcservices.ecourts.gov.in/hcservices/