BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :17.03.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.912 of 2021
and
W.M.P.(MD)Nos.766 and 767 of 2021

A.Paul Kumar ... Petitioner

Vs.

1.The Commissioner of Income Tax (Appeals)-1,
Office of the Commissioner of Income Tax,
Madurai.

2.The Income Tax Officer,
Ward 3, Nagercoil,
Kanyakumari District. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the 1st respondent in ITA No.251A/2016-17, dated 13.02.2020, quash the same.

For Petitioner : Mr.Bashyam.T

For Respondents : Mrs.S.Srimathy,
Special Government Pleader.

ORDER

Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents.

2.The petitioner is an assessee registered under the Income Tax Act. When the petitioner filed his income tax returns for the assessment year 2013-14, he omitted to include the purchase of a landed property made by him. Subsequently, it came to the notice of the assessing officer. Thereupon, the petitioner's assessment was reopened under Section 147 of Income Tax Act and an assessment order was passed on 30.12.2016.

3.Aggrieved by the same, the petitioner filed an appeal before the first respondent. Before the first respondent, the petitioner did not appear. As a result, the first respondent was constrained to dismiss the petitioner's appeal and confirm the assessment order passed by the original authority. Challenging the same, this writ petition came to be filed.

4.The petitioner had produced the copy of the sale deed dated 07.03.2013 before this Court. It is seen therefrom that the petitioner had purchased the property on 07.03.2013 for a sum of Rs.84,80,000/-.But then the impugned order proceeded on the premises that it is worth of Rs.8,46,00,000/-.If only the petitioner had produced the materials before the authority concerned, he would not be finding himself in the present position. In any event in the interest of justice and to give one more opportunity to the petitioner and since the petitioner had placed prima facie material to show that the impugned order is incorrect, the order impugned in the writ petition is quashed. The writ petition is allowed. The matter is remitted to the file of the first respondent. The first respondent will grant one more hearing to the petitioner. On the said date, the petitioner will positively appear and produce all the relevant records in support of his case. After considering all the materials, it is for the first respondent to dispose of the petitioner's appeal in the manner known to law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1.The Commissioner of Income Tax (Appeals)-1,
Office of the Commissioner of Income Tax,
Madurai.

2.The Income Tax Officer,
Ward 3, Nagercoil,
Kanyakumari District.

+1 CC to M/s.S.SRIMATHY, Advocate (SR-11749[F] dated 17/03/2021)
+1 CC to M/s.BASHYAM, Advocate (SR-12252[F] dated 18/03/2021)

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RK (27.04.2021) 2P 5C