IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.10.2022

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.1175 of 2020 and
WMP.Nos.1436 & 1437 of 2020

Sugumar Dhakshanamoorthy ... Petitioner

Vs

The Income Tax Officer,
Ward-2,
Income Tax Office,
Bharat Towers,
No.1A/24, Bye Pass Road,
Tiruvarur – 610 001. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the Respondent in PAN BBEPD9073J vide Order No.ITBA/AST/S/144/2019-20/1023360490(1) dated 29.12.2019 and raised a demand under Section 156 of the Income Tax Act in No.ITBA/AST/S/156/2019-20/1023360509(1) dated 29.12.2019 and quash the same as ex-facie illegal, arbitrary, without jurisdiction and against the principles of natural justice.

For Petitioner : Mr.K.Soundararajan
For Respondent : Mrs.Hema Muralikrishnan
Senior Standing Counsel

ORDER

The challenge in this writ petition is by an individual assessee to an order of assessment passed under Section 144 of the Income Tax Act, 1961 (in short 'Act') to the best of his judgment. The main ground of challenge is violation of principles of natural justice. In response to notices issued, the petitioner has, admittedly, filed replies on four occasions evidenced vide e-acknowledgments dated 16.08.2019, 19.08.2019, 02.12.2019 (two submissions filed on the same date).

2.Despite the same, the impugned order of assessment proceeds as though the petitioner had not responded to any of the notices or summons issued and there is no reference to the submissions made by the petitioner. In counter, the respondent concedes to the position that particulars had been filed by the petitioner, in part, that in the view of the assessing officer, were inadequate.

3. Having acceded to the position that some particulars had been filed by the assessee, it was incumbent upon the authority to have considered the same in finalizing the assesssment. While the adequacy or otherwise of the evidence is one matter, for the assessing authority to have ignored the particulars filed in

entirety, is, in my view, fatal to the procedure to be followed in framing of the assessment.

4.In light of the discussion as above, the impugned order of assessment dated 29.12.2019 is set aside and shall be treated, along with other notices issued prior thereto, as show cause notices, to which a reply will be filed by the petitioner within a period of four (4) weeks from date of receipt of a copy of this order. The website shall be enabled for this purpose.

5. Upon receipt of the reply, a link for personal hearing shall be provided, the petitioner heard and an assessment framed thereafter. The entirety of the exercise shall not exceed twelve (12) weeks from date of receipt of a copy of this order.

6.This writ petition is disposed in the above terms. No costs. Connected miscellaneous petitions are closed.

13.10.2022

vs
Index : Yes/No
Speaking Order/Non-speaking order
Note:Issue order copy on 18.10.2022.

DR.ANITA SUMANTH, J.

vs

To

The Income Tax Officer,
Ward-2,
Income Tax Office,
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