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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2022

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR.JUSTICE J. SATHYA NARAYANA PRASAD

Writ Appeal No. 395 of 2021

The Assistant Commissioner of Income Tax
(INV) Unit – 4 (3)
Investigation Wing
Room No.110, 1st Floor
New No.46, Old No. 108
Nungambakkam High Road
Chennai – 600 034 .. Appellant

Versus

Preetha Krishna .. Respondent

Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 07.09.2020 passed in W.P. No. 31383 of 2019.

Prayer in WP.No.31383 of 2019:-

Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records and quash the impugned order passed by the respondent vide F.No.ADIT/U-4(3)/2019-20 dated 18.10.2019, U/S. 230(1A) of the Income Tax Act, 1961 and consequentially direct the respondent herein to permit the petitioner to travel abroad as and when required in exercise of his fundamental right to travel abroad guaranteed under Article 21 of the Indian Constitution, by permanently removing all travel restrictions whatsoever, with immediate effect.

For Appellant : Mr.A.P.Srinivas

For Respondent : Mr. Nithyaesh and Vaibhav

JUDGMENT
(Judgment of the court was delivered by R. MAHADEVAN, J.)

This writ appeal is filed by the Revenue, questioning the correctness of the order dated 07.09.2020 passed by the learned Judge in W.P. No. 31383 of 2019.

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2.For better understanding, the relief sought in the writ petition filed by the respondent is quoted below:

> "...to issue a writ of Certiorarified Mandamus, calling for the records and quash the impugned order passed by the appellant vide F.No.ADIT/U-4(3)/2019-20 dated 18.10.2019 u/s. 230(1A) of the Income Tax Act, 1961 and consequentially direct the appellant to permit the respondent to travel abroad as and when required in exercise of his fundamental right to travel abroad guaranteed under Article 21 of the Indian Constitution, by permanently removing all travel restrictions whatsoever, with immediate effect".

3.It was the grievance of the respondent in the writ petition that the order passed by the appellant under section 230(1a) of the Act consequent to the search conducted on 18.10.2019 under section 132, is in complete violation of the due process of law and the principles of natural justice as enshrined in the Constitution of India. The respondent further stated that a mere bald allegation that she has beneficial interest in foreign entities, is unsubstantiated and bereft of any documentary evidence and based on the same, she cannot be implicated in the proceedings at a preliminary stage. Therefore, the restriction imposed insofar as it hinders the travel right of the respondent, is nothing but violation of fundamental right guaranteed under Article 21 of the Constitution of India.

4.By order dated 07.09.2020, which is impugned herein, the learned Judge, after detailed analysis, allowed the writ petition by setting aside the order dated 18.10.2019. Challenging the same, the appellant / department is before this court with this writ appeal.

5.However, when the matter was taken up for consideration, the learned standing counsel produced a copy of the communication dated 29.12.2021 sent by the appellant to the respondent, wherein, it is stated that notice issued under Section 10(1) of the Black Money Act, 2015 dated 23.10.2019 by the Assistant Director of Income Tax (Inv), Unit – 4(3), Chennai is withdrawn, since the assessment year 2018-19 is erroneously mentioned in the said notice. Therefore, the learned counsel submitted that the relief sought herein has become infructuous and hence, nothing survives for adjudication.

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6.Recording the above submission and the communication so produced on the side of the appellant, this writ appeal is dismissed as infructuous. No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

msr

To

The Assistant Commissioner of Income Tax
(INV) Unit – 4 (3)
Investigation Wing
Room No.110, 1st Floor
New No.46, Old No. 108
Nungambakkam High Road
Chennai – 600 034.

+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.24472

W.A. No. 395 of 2021

SKM(CO)
SU(16/05/2022)

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