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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.2361 of 2022
and W.M.P.Nos.2521 & 2523 of 2022

Saraswathy Sadasivan

... Petitioner

-Vs-

Additional / Joint/ Deputy / Assistant Commissioner
of Income Tax / Income Tax Officer
National Faceless Assessment Centre, Delhi. ... Respondents

Prayer : Writ Petitions under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records in order dated 03.01.2022 bearing No.ITBA/AST/F/17/2021-22/1038375941(1) passed by the respondent for PAN AYWPS5109F for AY 2014-15 and quash it as illegal, arbitrary and unlawful and to consequently forbear the respondent from in any manner reassessing the petitioner's income under Section 147 of the Act for AY 2014-15.

For Petitioner : Ms.Ashwini Vaidialingam

For Respondents : Mr.D.Prabhu Mukunth Arunkumar
Junior Standing Counsel

O R D E R

The prayer sought for herein is for a Writ of Certiorarified Mandamus calling for the records in order dated 03.01.2022 bearing No.ITBA/AST/F/17/2021-22/1038375941(1) passed by the respondent for PAN AYWPS5109F for AY 2014-15 and quash it as illegal, arbitrary and unlawful and to consequently forbear the respondent from in any manner reassessing the petitioner's income under Section 147 of the Act for AY 2014-15.

2. The petitioner is an individual. For the assessment year 2014-15, the petitioner did not have any taxable income and therefore the petitioner did not file the return. On 31.03.2021, the petitioner received a notice under Section 148 of the Income Tax Act, 1961 from the respondent stating that, it had reasons to believe that income chargeable to tax for the Assessment Year 2014-15 escaped assessment within the meaning of Section 147.



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3. Thereafter, the petitioner had filed her return of income for Assessment Year 2014-15 on 29.05.2021. On 31.05.2021, the petitioner also requested the respondent to provide the reasons for reopening the assessment.

4. On 03.08.2021, the respondent issued a notice under Section 143(2) providing three reasons that the assessee had undertaken the following transactions,

- a) Purchased immovable property for Rs.2,50,00,000/-
- b) The income from business or profession of Rs.53,366/- is covered by TDS Deduction u/s.194H.
- c) Acquired bonds / debentures to the tune of Rs.12,00,000/-.

5. In respect of these reasons, the petitioner in fact had given a detailed objection to the Revenue on 18.08.2021 stating the following,

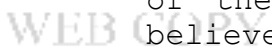
"7. It has been stated that I have purchased immovable property for Rs.2,50,00,000/- and the same is merely a statement without any reason as to how the above would constitute income escaping assessment notwithstanding the fact that I did not purchase any immovable property during the year ended 31.03.2014 as stated by you.

8. It has also been stated that I had income from business or profession amounting to Rs.53,366/- which is covered by TDS deduction u/s.194H. I state that the same is below taxable limits and will not constitute income escaping assessment.

9. Vide Para 3 in the same communication recording the reasons for reopening the assessment it has been alleged that I have acquired bonds stock debentures to the tune of Rs.12,00,000/-. I submit that I have not acquired any bonds or debentures during the year ended 31.03.2014."

6. Having considered the said objection raised by the petitioner, the Revenue, in the order impugned dated 03.01.2022, which is a rejection order of the objection, has stated the following reasons for such rejection.

" The objection raised by the assessee has been considered. At the time of reopening of the case, the AO is only required to have reasons to



11. Since it is a procedure contemplated under Section 147 of the Act, where, if the assessing authority has reason to believe that, there has been some income escaped assessment, then they can reopen the assessment under Section 147 for which notice has to be issued under Section 148 and when such notice has been issued in the present case, the same has been faced by the petitioner questioning the Revenue as to on what basis the Revenue has come to the conclusion that there is an income escaped assessment.

13. However in respect of those objections having been considered, the respondent Revenue has given its reasons as to how they reiterate those three reasons, for which they say that, they are in possession of tangible materials to establish that there has been a transaction of purchase of immovable property, income from business/profession and also acquisition of bonds and debentures etc.,

15. Therefore, this Court feels that the petitioner cannot have a successful challenge of the impugned order. Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sub Assistant Registrar

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



To
The Additional / Joint/ Deputy / Assistant Commissioner
of Income Tax / Income Tax Officer
National Faceless Assessment Centre, Delhi.

+1cc to M/s.Suhrith Parthasarathy, Advocate, S.R.No.9785
+1cc to M/s.Hema Muralikrishnan, Advocate, S.R.No.9922

W.P.No.2361 of 2022

PMK (CO)
SB (07/03/2022)