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.

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

believe that income of the case, the AO is only required to have reason to believe that income of the assessee had escaped tax and further, the AO is only required to demonstrate the existence of tangible materials which formed the basis of information of a belief that the income of the assessee had escaped assessment. This tangible material was in the form of information available in the MIMS Module-Multi Year NMS that during the year under consideration, assessee purchased immovable property for Rs.2,50,00,000/- income from business or profession of Rs.53,366/- and acquired bonds/debentures to the tune of Rs.12,00,000/-. The above transactions clearly shows that the assessee was in receipt of taxable income for the FY 2013-14. However, the assessee had not filed the return of income or the AY 2014-15. Based on specific information, a valid 'reason' was formed to 'believe' that income of Saraswathy Sadasivam chargeable to tax has escaped assessment within the meaning Section 147 of the IT Act, 1961. As mentioned in the reasons recorded there is reason to believe that income chargeable to tax has escaped assessment within the meaning of Section 147 of the I.T.Act, 1961.”

7. Aggrieved over the same, the present writ petition has been filed by the petitioner.

8. Heard Ms.Ashwini Vaidialingam, learned counsel for the petitioner, who having reiterated the aforesaid facts, would contend that, since the petitioner had made strong denial and objection in respect of the three reasons allegedly made by the Revenue for reopening the assessment under Section 147 of the Act, those objections should have been properly considered or should have been considered in proper perspective by the respondents, without which if they choose to reject the objections through the impugned order, the same is vitiated.

9. Learned counsel for the petitioner would vehemently contend that, none of the three reasons stated by the Revenue as the reasons for reopening of assessment under Section 148 are available or tenable as no such transactions are available.

10. However, Mr.D.Prabhu Mukunth Arunkumar, learned Junior Standing Counsel would contend that, the three objections raised for the three reasons stated by the Revenue have been considered and the Revenue asserted that, through the tangible materials available with the respondent Revenue, they reiterated that, they have the jurisdiction to proceed under Section 147 of the

Act and accordingly the said objection has been rejected through the impugned order, of course rightly, he contended.

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.

12. Three reasons have been specifically given by the Revenue as stated supra and in respect of these three reasons, objection has been raised specifically by the petitioner through her objection dated 18.08.2021 in Paras 7,8 and 9 which have been quoted herein above.

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.,

14. Since the Revenue reiterated three reasons for which they want to reopen the assessment under Section 147 and since the objections raised in this regard by the petitioner having been considered, this Court feels that there is absolutely no plausible reason available for this Court to interfere with the said proceedings issued by the respondent dated 03.01.2022 rejecting the objections raised by the petitioner for reopening the assessment under Section 147 of the Act.

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.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

KST

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)