IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.6117 of 2022
And
W.M.P.Nos.6207 and 6208 of 2022

K 628 Keeranatham Primary
Agricultural Co-operative Society Limited,
Rep. by its Secretary ...Petitioner

Vs.

The Additional / Joint / Deputy/
Assistant Commissioner of Income Tax /
Income Tax Officer,
Income Tax Department,
National e-Assessment Centre,
Delhi. ...Respondent

Prayer:Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the entire records relating to the impugned order passed by the respondent in its order No.ITBA/AST/S/ 147/2021-22/1034943660(1), dated 17.08.2021 and quash the same.

For Petitioner : Mr.C.Prakasam
For Respondent : Mr.A.N.R.Jayaprathap
Junior Standing Counsel

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari calling for the entire records relating to the impugned order passed by the respondent in its order No.ITBA/AST/S/147/ 2021-22/1034943660(1), dated 17.08.2021 and to quash the same.

2.The case of the petitioner is that the petitioner is an assessee and not filed income tax return for the assessment year 2012 – 13 within the prescribed time limit and filed the same, in response to the notice issued under Section 148 of the Income

Tax Act dated 15.03.2019, declaring nil income after claiming deduction under Section 80 P (2)(a) of the Act. Thereafter, assessment proceedings were initiated as against the petitioner and the same was concluded and order dated 17.12.2019 was passed, demanding the petitioner to pay a sum of Rs.17,50,880/-. Challenging the same, the petitioner filed W.P.No.5552 of 2020 before this Court. This Court vide order dated 03.03.2020 set aside the order impugned in the said writ petition and remanded the matter back to the Assessing Officer. Thereafter, the impugned order was passed demanding the petitioner to pay a sum of Rs.12,95,543/- as income tax. Challenging the same, the petitioner has filed this writ petition.

3.The learned Junior Standing Counsel appearing for the respondent submitted that as against the assessment order, there is effective appeal remedy available to the petitioner under Section 246(A) of the Income Tax Act before the Commissioner of Income Tax Appeals (Faceless Appeals) and without availing such remedy, the petitioner has filed this writ petition, which is un-sustainable one.

4.In view of the above, liberty is granted to the petitioner to file appeal under Section 246(A) of the Income Tax Act before the Commissioner of Income Tax Appeals (Faceless Appeals) as against the impugned assessment order, within a period of four weeks from the date of receipt of a copy of this order.

5.The writ petition is disposed of with the above observation. No costs. Consequently, the connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

The Additional / Joint / Deputy/
Assistant Commissioner of Income Tax /
Income Tax Officer,
Income Tax Department,
National e-Assessment Centre,
Delhi.

+1 CC to Mr.C.Prakasam, Advocate sr 18331.
+1 CC to Mr.A.P. Srinivas, Advocate sr 18484.

W.P.No.6117 of 2022
And
W.M.P.Nos.6207 and 6208 of 2022

MT(CO)
SP(04/04/2022)