IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2022
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.6083 of 2022
And
W.M.P.Nos.6165 and 6167 of 2022

Yusuf ..Petitioner
Proprietor of M/s.Jem Enterprises
412, Mariamman Koil Street
Peelamedu, Porur, Coimbatore 641 004.

Vs.

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

2.The Principal Commissioner of Income Tax, PCIT, 63, Race Course Road, Coimbatore, Tamil Nadu – 641 018. ...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in Order impugned order No.ITBA/COM/F/17/2021 – 22/1040546571(1) dated 10.03.2022 for the Assessment Year 2016 – 2017, issued by the second respondent, quash the same and consequently, direct the first respondent to treat the petitioner as not being in default as per section 220 (6) of the Income Tax Act, 1961.

For Petitioner : Mr.M.V.Swaroop
For Respondents : 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 Certiorarified Mandamus calling for the records in Order impugned order No.ITBA/COM/F/17/2021 – 22/1040546571(1) dated 10.03.2022 for the Assessment Year 2016 –

2017, issued by the second respondent, quash the same and consequently, direct the first respondent to treat the petitioner as not being in default as per section 220 (6) of the Income Tax Act, 1961.

2.The case of the petitioner is that the petitioner filed original return of income for the assessment year 2016 - 17 on 29.03.2018 declaring the total income of Rs.6,42,950/-. It is alleged that the petitioner has not reported the rental income of Rs.16,75,600/- and contract receipts to the tune of Rs.5,02,41,904/-. The case of the petitioner was reopened under Section 147 of the Income Tax Act and notice under Section 148 of the Income Tax Act was issued to the petitioner on 22.07.2019. Thereafter notice under Section 142(1) of the Act was issued to the petitioner on 18.12.2020 to be complied by 04.01.2021. Thereafter, it was transferred to National Faceless Assessment Centre and a fresh notice under Section 142(1) of the Act was issued to the petitioner on 22.02.2021 to be complied by 26.02.2021. Thereafter assessment order dated 21.09.2021 was passed demanding tax of Rs.2,49,08,598/-.

3.The further case of the petitioner is that aggrieved by the assessment order, he filed appeal before the CIT (Appeals) on 30.01.2022. Thereafter, the petitioner remitted a sum of Rs.24,80,000/- towards 10% of the demand and filed petition for stay before the second respondent on 07.02.2022, however, the impugned order was passed by the second respondent on 10.03.2022 directing the petitioner to pay further 10% of the demand amount. Hence, this petition.

4.The learned counsel appearing for the petitioner submitted that with great difficulty, earlier, the petitioner remitted the amount Rs.24,80,000/- towards 10% of the demand. Now the petitioner is inclined to remit further 5% of the demand amount before the first respondent. Hence, this Court, without going into the merits of the case, may issue direction to the CIT (Appeals) to dispose of the appeal filed by the petitioner within a reasonable time frame.

5.Considering the limited request now made by the learned counsel appearing for the petitioner, this Court, without expressing any opinion on the merits of the case, directs the petitioner to remit further 5% of the demand amount, within a period of four weeks from the date of receipt of a copy of this order. Thereafter, the CIT (Appeals) is directed to dispose of the petitioner's appeal as expeditiously as possible. Till the disposal of the appeal filed by the petitioner, the respondents are directed to not to take any coercive steps, as against the petitioner.

6.The writ petition is accordingly disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

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

2. The Principal Commissioner of Income Tax, PCIT,
   63, Race Course Road,
   Coimbatore,
   Tamil Nadu – 641 018.

+1 CC to Mr.M.V.Swaroop, Advocate sr 18353.
+1 CC to Mr.A.P. Srinivas,Senior Standing Counsel (IT) sr 18485

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And
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GPL(CO)
SP(28/03/2022)