IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.6961 & 6964 of 2022
W.M.P.Nos.6998 & 6999 of 2022

Kanniah Kumar ... Petitioner in both W.Ps

Vs.

1.The Deputy Commissioner of Income Tax,
Non Corporate Circle - 19(1),
121, Nungambakkam High Road,
Chennai - 600 034.

2.The Additional Commissioner of Income Tax,
Range - 19,
121, Nungambakkam High Road,
Chennai - 600 034.

3.The National Faceless Assessment Centre,
New Delhi. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the third respondent herein to re-transfer the case file of the petitioner relating to the re-assessment proceedings for AY 2017-18, AY 2018-19 respectively, back to the file of the first respondent and further direct the second respondent to dispose of the petition filed by the petitioner under Section 144A of the Income Tax Act, prior to the completion of the re-assessment proceedings by the first respondent.

For petitioner : Mr.Waraon and Sai rams
(in both W.Ps)

For Respondents : M/s.Hema Muralikrishnan
Senior Standing Counsel
(in both W.Ps)

COMMON ORDER

The petitioner has filed this petition seeking direction to the third respondent herein to re-transfer the case file of the petitioner relating to the re-assessment proceedings for AY

2017-18, AY 2018-19 respectively, back to the file of the first respondent and further direct the second respondent to dispose of the petition filed by the petitioner under Section 144A of the Income Tax Act, prior to the completion of the re-assessment proceedings by the first respondent.

2. M/s.Hema Murali Krishnan, Senior Standing Counsel takes notice for the respondents. In view of the limited relief sought for in these petitions and on the consent expressed by the learned counsel appearing on either side, this petition is taken up for final disposal.

3. The issue arise in both the present cases are same, accordingly, both the writ petitions are disposed of by way of common order. The petitioner filed the Income Tax Returns for the Assessment Year 2017-18 and 2018-19, on 16.02.2018 and 31.08.2018 respectively, admitting an income of Rs.1,97,38,000/-, Rs.1,98,96,129/- and agricultural income of Rs.2,25,000/- and Rs.2,10,000/- respectively. The Capital Assets for the year ended 31.03.2017 was Rs.10,92,96,398/- , Rs.11,39,48,688/-. Accordingly, the petitioner had paid the Tax and the petitioner's return was also accepted for the year 2017-18. Subsequently, while entering the the figures in ITR 3 application, the Auditor's apprentice added all the liabilities in the three accounts and entered the same in the sources of capital in ITR3, whereby, a sum of Rs.14,54,03,863/- was erroneously reported as capital asset in the place of Rs.10,92,96,297/- and Rs.11,39,48,688/- respectively, as prepared by the statutory Auditor. The first respondent treated the sum of Rs.3,61,07,566/- and Rs.3,76,83,584/- as income omitted from disclosure in the return of income for the year 2017-18 and 2018-19 and issued a notice under Section 148 proposing to assess the said amount of Rs.3,61,07,466/- and Rs.3,76,83,584/- additionally, after getting the approval of the Jurisdictional Commissioner on 29.03.2021. Immediately, the petitioner gave reply on 27.09.2021 explaining that there was no escapement of income and it was only an inadvertent mistake while entering the figures of the capital account in ITR 3 by the Auditor's apprentice. However, the first respondent did not accept the petitioner's explanation and reopened the assessment for the year 2017-18 and 2018-19 by issuing a notice under Section 142(1) dated 12.11.2021 and thereafter, the petitioner preferred an application under Section 144A of the Act before the second respondent on 24.11.2021. However, till date no action has been taken by the respondent. Hence, the present Writ Petition has been filed by the petitioner for the above relief.

4. Though very many grounds have been raised, learned counsel for the petitioner submitted that this Court may issued direction to the respondent to conclude 144A application filed

by the petitioner within a reasonable time fixed by this Court and no coercive action be taken till then.

5. The learned Senior Standing Counsel for the respondents fairly submitted that respondents will pass appropriate orders on the application filed by the petitioner under Section 144A, within a reasonable time that may be fixed by this Court.

6. In view of the aforesaid submissions, this Court without expressing any opinion on the merits of the case, directs the respondents to pass appropriate orders on the petitioner's 144A application within a period of two weeks from the date of receipt of a copy of this Order.

7. Accordingly, these writ petitions are disposed of with the aforesaid direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

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2.The Additional Commissioner of Income Tax,
Range - 19,
121, Nungambakkam High Road,
Chennai - 600 034.

3.The National Faceless Assessment Centre,
New Delhi.

+1cc to M/s.Waraon & Sairams, Advocate Sr.20165
+1cc to M/s.Hema Muralikrishnan, Advocate Sr.20214
+1cc to M/s.Waraon & Sairams, Advocate Sr.20166 (29/03/2022)

W.P.Nos.6961 & 6964 of 2022
W.M.P.Nos.6998 & 6999 of 2022

ppa[co]
srg 28/03/2022