IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.NO.9445 OF 2022
AND
W.M.P.NOS.9190 & 9191 OF 2022

Sivakumaran Pugazhendi,
No.70, Raja Agraharam Street,
Poonamallee,
Chennai – 600 056. ... Petitioner

-Vs-

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

PRAYER:- Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, call for the records pertaining to the impugned penalty order dated 16th February, 2022 bearing Document Identification Number ITBA/PNL/F/271(1)(c)/2021-22/1039816731(1) passed by the respondent under Section 271(1)(c) of Income Tax Act, 1961 for the Assessment Year 2014-15 by the respondent and quash the same.

For Petitioner : M/s.T.V.Muthu Abirami

For Respondent : Mrs.Hema Muralikrishnan
Senior Standing Counsel

O R D E R

The prayer sought for herein is for a writ of Certiorari, to quash the impugned penalty order dated 16th February 2022 bearing Document Identification Number ITBA/PNL/F/271(1)(c)/2021-22/1039816731(1) passed by the respondent under Section 271(1)(c) of Income Tax Act, 1961 for the Assessment Year 2014-15.

2. In respect of the Assessment Year 2014-2015 against the petitioner/assessee order of assessment dated 23.11.2019 was passed by the Revenue under the Income Tax Act, 1961[in short, “the Act”].

3. Against the same, suo motu revision had been taken by the Principal Commissioner under Section 263 of the Act, where the Principal Commissioner having set aside the Assessment Order dated 23.11.2019 remitted the matter back to the Assessing Authority for re-assessment, the re-assessment process is going on as of now.

4. When that being so, pursuant to the earlier Assessment Order dated 23.11.2019, since already penalty proceedings was initiated, that has now been imposed in the present order, which was issued under Section 271(1)(c) of the Act dated 16.02.2022, which is impugned herein.

5. Heard Ms.Muthu Abirami, learned counsel appearing for the petitioner and Mrs.Hema Muralikrishnan, learned Senior Standing Counsel appearing for the respondent.

6. Since the very Assessment Order itself has been set aside and re-assessment process is going on, the question of any penalty order under Section 271(1)(c) of the Act, does not arise at this juncture. Therefore on that ground, I am inclined to set aside the order, which is impugned herein.

7. In the result, the impugned order is set aside. However, it is open to the Revenue to complete the re-assessment at the earliest point of time. It is needless to mention that, depending upon the outcome of the decision to be made in the re-assessment, the further course of action can be taken.

8. With the above observation, this Writ Petition is disposed of. No costs. Connected miscellaneous petitions are dismissed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

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

+1cc to M/s.T.V.Muthu Abirami, Advocate, S.R.No.28587
+1cc to Mrs.Hema Muralikrishnan, Advocate, S.R.No.27867

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AK-II(CO)
PBS/06/05/2022