IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.9033 of 2022
W.M.P.No.8834 of 2022

Somasundaram Thiyagarajan ... Petitioner

Vs.

1.The Union of India,
Represented by its Secretary,
Finance Department,
New Delhi.

2.The Central Board of Direct Taxes,
Represented by its Chief Commissioner,
Aayakar Bhavan, No.121, MG Road,
Nungambakkam, Chennai - 600 034.

3.The Principal Commissioner,
Income Tax (APPEALS),
Aayakar Bhavan, No.121, MG Road,
Nungambakkam, Chennai - 600 034.
... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to consider the petitioner's representation dated 17.03.2022 and pass orders directing the respondents to accept the petitioner's payment of Income Tax for the Assessment Year 2017-2018 under Vivad se Vishwas Scheme.

For petitioner : Mr.R.Viduthalai
Senior Counsel for
R.Revathy

For Respondents : Mr.Prabhu Mukunth Arun Kumar
Standing Counsel

ORDER

The petitioner has filed this petition seeking direction to the respondents to consider the petitioner's representation dated 17.03.2022 and pass orders directing the respondents to accept the petitioner's payment of Income Tax for the Assessment Year 2017-2018 under Vivad se Vishwas Scheme.

2. Mr.Prabhu Mukunth Arun Kumar, learned Standing Counsel takes notice for the respondents. In view of the limited relief sought for in this petition and on the consent expressed by the learned counsel appearing on either side, this petition is taken up for final disposal.

3. The case of the petitioner is that the petitioner is working in a private company and is a Regular Tax Payer without any default. He had filed filed Income Return for the Assessment Year 2018 on 17.07.2017. His case was taken up for limited scrutiny assessment for reason "Credit Card Payment" and notice under Section.143(2) was issued on 09.08.2018. Subsequently, notice under Section.142(1) dated 18.06.2019 and 07.08.2019 were issued. However, the petitioner response was not considered and an Assessment order was passed on 27.11.2019, directing the petitioner to pay entire amount of Rs.11,36,150/- towards credit card purchase is treated as unexplained investment. The Income Tax assessed for the year 2018 is determined at Rs.13,58,816/- and after adjusting pre-paid taxes, additional income tax payable is computed as Rs.11,59,304/-(with interest). The said demand notice was issued to the petitioner under Section 156 of the Income Tax Act, 1961 dated 27.11.2019. Aggrieved by the said demand notice, petitioner preferred an appeal dated 25.12.2019 to the Commissioner of Income Tax (Appeals), Chennai against the above Assessment Order dated 27.11.2019. During the pendency of the appeal, the Central Government had enacted Direct Tax Vivad se Vishwas Act, 2020 on 17.03.2020 with a view to provide for resolution of the disputed tax and related matters. In order to avail such a benefit, the petitioner filed a Declaration, and the same was acknowledged by the respondents. In the meanwhile, the petitioner's entire family was effected by COVID and his father expired on 29.05.2021 and further, his wife under went a surgery. Due to the above reasons, the petitioner was unable to pay the tax on or before 31.10.2021, within the time frame prescribed in the above said scheme. Thereafter, the petitioner made a representation dated 17.03.2022 before the respondents to extend the benefit of the scheme under Section.10 of the above said Act, in favour of the petitioner. However, till date no action has been taken by the respondents on the representation made by the petitioner. 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 submits that it would suffice if this Court directs the respondents to consider the petitioner's representation dated 17.03.2022 within the time frame that may be fixed by this Court.

5. The learned Standing Counsel appearing for the respondents submits that the petitioner's representation dated 17.03.2022 will be considered by the respondents and pass appropriate orders within the time frame 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 consider the petitioner's representation dated 17.03.2022, and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this order.

7. Accordingly, this writ petition is disposed of with the aforesaid direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary,
The Union of India, Finance Department, New Delhi.

2.The Chief Commissioner,
The Central Board of Direct Taxes, Aayakar Bhavan,
No.121, MG Road, Nungambakkam, Chennai - 600 034.

3.The Principal Commissioner,
Income Tax (APPEALS), Aayakar Bhavan, No.121, MG Road,
Nungambakkam, Chennai - 600 034.

+1cc to Ms.R.Revathy, Advocate SR. No. 24701
+1cc to M/s.Hema Muralikrishnan, Advocate SR. No. 24836

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KK (CO)
PR (27/04/2022)