IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 25.04.2022
CORAM
THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
W.P.No.9927 of 2022
and
W.M.P.Nos.9655 & 9658 of 2022

Mr.Kattari Venkatasubbiah Thiruppathaiah ... Petitioner

Vs

1.Assistant Commissioner of Income Tax,
Non Corporate Circle 7 (1) Chennai,
Wanapathy Block, No.121, Mahatma Gandhi Road, Nungambakkam,
Chennai – 34.

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

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records on the file of the 2nd Respondent in PAN: ACZPT1228L and quash the impugned assessment order u/s.147 r.ws. 144B of the Income Tax Act, 1961 in ITBA/AST/S/147/2021-22/1042176658(1) issued on 30.03.2022 passed by the 2nd Respondent for the AY 2014-15 as illegal and without jurisdiction.

For Petitioner : Ms.A.Niveditha

For Respondents : Mr.D.Prabhu Mukunth Arunkumar
Junior Standing Counsel

ORDER

The prayer sought for herein is for a Writ of Certiorari, calling for the records on the file of the 2nd Respondent in PAN: ACZPT1228L and quash the impugned assessment order under Section 147 read with Section 144B of the Income Tax Act, 1961 in ITBA/AST/S/147/2021-22/1042176658(1) issued on 30.03.2022 passed by the 2nd Respondent for the Assessment Year 2014-15.

2. The petitioner is an assessee under the respondent within the meaning of the provisions of the Income Tax Act, 1961 [in short, 'the Act']

3. In respect of the Assessment Year 2014-15, though the scrutiny assessment under Section 143 (3) of the Act was over, still the Revenue wanted to reopen it under Section 147 of the

Act. Therefore, notice under Section 148 of the Act was issued. Even challenge has been made with regard to the reopen under Section 147 read with Section 148 of the Act, and the petitioner had filed a writ petition in W.P.No.6940 of 2022, where a learned Judge of this Court by order dated 25.03.2022, though entertained the writ petition, has passed the interim order, stating that the proceedings may go on, however, any decision taken by the authorities, is subject to the result of the writ petition.

4. When that being the position, now the order of assessment passed by the Revenue dated 30.03.2022, is under challenge.

5. The main crux of the issue was that, there was a cash deposit of a sum of Rs.8,45,65,000/- during the Financial Year 2013-14, which is relevant to the Assessment Year 2014-15.

6. Out of which, sources for only Rs.3,27,76,000/- were disclosed as per the cash flow statement furnished by the assessee. However, the differential amount, that amounts to Rs.5,17,89,000/- since has not been explained with regard to the sources, that was treated as unexplained income to the extent, which was considered as the income escaped assessment within the meaning of Section 147 of the Act. Therefore, on that, assessment has been completed and now the impugned assessment order has been passed. In this context, there is no procedural violation noticed by this Court in completing the assessment. Hence, it cannot be treated as a case, where the principles of natural justice has been violated and the statutory provision has been violated by the Revenue. When that being so, this Court is not inclined to entertain this writ petition, instead, this Court wants to relegate the petitioner / assessee to go before the Appellate Authority to file quantum appeal in the manner known to law.

7. In that view of the matter, this writ petition is dismissed with liberty to the petitioner to file quantum appeal before the Commissioner of Income Tax (Appeals) under the provisions of the Act. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To
1.Assistant Commissioner of Income Tax,
Non Corporate Circle 7 (1) Chennai,
Wanapathy Block, No.121, Mahatma Gandhi
Road, Nungambakkam,
Chennai - 34.

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

+1 cc to Mr.R.Sivaraman, Advocate Sr.NO. 28192
+1 cc to Mr.Hema Muralikrishnan, Advocate Sr.NO. 28302

W.P.No.9927 of 2022

SKM(CO)
A.SK(23/05/2022)