



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition Nos.10045 & 10049 of 2022
and

W.M.P.Nos.9749, 9750, 9754 & 9755 of 2022

G.Ravisankar

S/o.Govindarajalu

...Petitioner in both W.Ps.

Vs.

Income Tax Officer,
Income Tax Department,
Office of the Income Tax Officer,
Non Corp Ward 19(6) Chennai,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai - 600 034.

...Respondent in both W.Ps.

Common Prayer: Writ Petition filed under Section 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records of the impugned Order in DIN & Notice No.ITBA/AST/F/148A/2021-22/1043240166(1) & No.ITBA/AST/F/ 148-1/2021-22/1042356112(1) dated 31.03.2022 for Assessment Year 2015-2016 from the files of the respondent herein, quash the same.

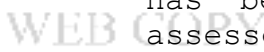
For Petitioner : Ms.Aparna Nandakumar
[in both petitions]

For Respondent : Mrs.Hema Muralikrishnan
[in both petitions]

COMMON ORDER

The issue raised in these writ petitions are interconnected and common, therefore with the consent of learned counsel appearing on both sides, these writ petitions were heard together and are disposed of by this common order.

2. That in respect of Assessment Year 2015-2016, the Revenue was in believe that there was an escaped assessment of tax against the assessee, therefore in order to issue notice under Section 148 of the Income Tax Act, 1961 [in short, "the Act"] in order to comply with the provisions as contemplated under



3. The said notice, though was claimed by the Revenue that has been sent through E-governance, it is a stand of the assessee that he had not received through E-governance. However, the same notice dated 17.03.2022 was served on the petitioner by RPAD on 24.03.2022.

5. The said request made by the petitioner/assessee was sent to the Assessing Officer through RPAD, which also was received and acknowledged by the Assessing Officer on 26.03.2022.

7. As a sequel, on the same date i.e., 31.03.2022 notice under Section 148 was issued by the Revenue to the assessee, that is under challenge in W.P.No.10049 of 2022.

9. Though the said request having been received by the Assessing Authority on 26.03.2022 itself, on 31.03.2022 they passed the impugned order, wherein it has been stated that the assessee did not file any reply even though notice was served through E-mail to the petitioner/assessee. Therefore, the request made by the petitioner/assessee seeking further time of two weeks had not at all been considered and it has been stated in the impugned order that, as if the petitioner has not filed any reply. Hence, the learned counsel submits that, it is a



natural justice. Therefore on that ground, these impugned orders are liable to be interfered with.

14. That apart, Sub-Section (b) of Section 148 makes it clear that while serving a notice on the assessee to show cause, even such time may be specified in the notice being not less than 7 days and not exceeding 30 days from the date on which the said notice is issued. Therefore, sub-Section(b) of Section 148 contemplates that, a minimum of 7 days notice must be given.

15. Herein a case in hand, notice dated 17.03.2022 was issued giving time upto 21.03.2022 therefore, the minimum 7 days since has not been given in this case, on that ground also consequential proceedings, which is impugned herein is vitiated and it can be interfered with.

16. In that view of the matter, this Court is inclined to dispose of these writ petitions with the following orders:

- That the impugned order in W.P.No.10045 of 2022 is hereby set aside. As a sequel, the impugned order in W.P.No.10049 of 2022 is also set aside and the matter is remitted back to the respondent. While redoing the exercise, it is open to the respondent to issue a notice afresh under Section 148B giving not less than 7days to the petitioner/assessee to respond and on receipt of the same, the petitioner shall respond by giving their reply or inputs within the time stipulated therein.
- In this regard, it is made clear that as far as possible, the assessee, since the E-governance is in practice, has to give his reply only through E-governance. Therefore, the defence that it has been sent only through registered post may not be taken in this case in future.

With these observations and directions, both the writ petitions are disposed of accordingly. No costs. Connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

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Sub-Assistant Registrar

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To

The Income Tax Officer,
Income Tax Department,
Office of the Income Tax Officer,
Non Corp Ward 19(6) Chennai,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai - 600 034.

+1 CC to M/s. Aparna Nandakumar, Advocate sr 27461
+1 CC to M/s. Hema Muralikrishnan, Advocate sr 27452.

W.P.Nos.10045 & 10049 of 2022

RP(CO)
SP(26/04/2022)