IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2022

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.9815 OF 2022
AND
CRL.M.P.NOS.5768 AND 5770 OF 2022

Parimala
... Petitioner

Vs.

State Rep.by
The Income Tax Officer
Non Corporate Ward 14(3),
No.121, Nungambakkam High Road,
Nungambakkam,
Chennai 600 034.
... Respondent

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to the proceedings in E.O.C.C.No.11 of 2018 pending on the file of the Additional Chief Metropolitan Magistrate (Economic Offences) Egmore, Chennai and quash the same.

For Petitioner	:	M/s.R.Babu Rangasamy Associates
For Respondent	:	Mr.L.Muralikrishnan Standing Counsel for Income Tax

O R D E R

This Criminal Original Petition has been filed to call for the records relating to the proceedings in E.O.C.C.No.11 of 2018 pending on the file of the Additional Chief Metropolitan Magistrate (Economic Offences) Egmore, Chennai and quash the same.

2. The petitioner was shown as an accused in the complaint filed by the respondent/Income Tax Officer under Section 276CC of the Income Tax Act, 1961 for the Assessment year 2014-15 (Accounting Year ending 31.03.2014). The petitioner/accused has sold an immovable property for a sale consideration of Rs.60,00,000/- during the financial year 31.03.2014 but the petitioner did not file her return of income for the AY 2014-15 in time. Despite the taxable and substantial income received by the petitioner/accused she has willfully and deliberately not filed her return for the AY 2013-14. Therefore a show cause notice dated 04.08.2017 was issued by the complainant to the petitioner/accused to show cause why proceedings under Section 276 CC of the Income Tax should not be initiated against the petitioner for default in filing of the return for AY 2013-14. The petitioner also sent a reply dated 09.08.2017 through her Chartered Accountant but the reply given by the petitioner/accused was not acceptable and convincing. By not filing the return of income within the time prescribed under Section 139 of the Income Tax Act, the accused has forbid the opportunity to the assessing officer for determination of her true and correct income for the AY 2014-15 within the time limit prescribed under Section 153 of the Income Tax Act. Claim of the accused that there was no tax liability cannot be accepted. The filing of statement of income doe not absolve the accused from prosecution under Section 276 CC of the Income Tax Act. Therefore it is clear that the accused has willfully and deliberately not filed her return of income for the AY 2014-15 as required Section 139 of the Income Tax Act even though she had substantial taxable income. The complainant submits that the accused has willfully and deliberately concealed her true and correct income by not furnishing return of income voluntarily under Section 139(1) of the Income Tax Act, 1961 within the time limit and has caused loss of revenue to the exchequer.

3. Heard both sides.

4. The main allegation against the petitioner is that despite sale of the property necessary tax has not been paid, only after the issuance of the show cause notice tax has been paid. Admittedly, tax has been paid. Such view of the matter the petitioner is directed to file necessary compounding petition before the concerned authority and the authority shall take a call on it and decide the matter on merits taking into consideration of the fact that the tax has been paid immediately. Till such time the personal appearance of the petitioner before the trial Court is dispensed with and the compounding petition to be filed expeditiously as possible without any further delay.

5. With the above direction this Criminal Original Petition is disposed of. Consequently connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

dpq

To

1. The Additional Chief Metropolitan Magistrate
   (Economic Offences) Egmore,
   Chennai.

2. The Income Tax Officer
   Non Corporate Ward 14(3),
   No.121, Nungambakkam High Road,
   Nungambakkam,
   Chennai 600 034.

+1cc to M/s.R.Babu Rangasamy Associates, Advocate, S.R.No.36683

+1cc to Mr.L.Muralikrishnan, Advocate, S.R.No.36839

Crl.O.P.No.9815 of 2022

JPL(CO)
RLP(21/06/2022)