IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2022

CORAM :

The Hon'ble Mr.JUSTICE M.SUNDAR

W.P.No.33375 of 2022
and
W.M.P.No.32807 of 2022
in
W.P.No.33375 of 2022

Muthu Narayanan
No.28A, Flat-D
2nd Floor, GRN Flats
100 Feet Road, Hindu Colony
Naganallur, Chennai-600 061. .. petitioner

Vs.

The Assistant Commissioner of Income Tax
Office of the Assistant Commissioner of Income tax
Central Circle 1(4)
Chennai-34. .. Respondent

Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the assessment order dated 31.03.2022 in PAN No.AMPPM7299C, DIN & Notice No.ITBA/AST/M/153A/2021-22/1042304828(1) for Asst. Year 2015-16 passed by the respondent and quash the same as illegal.

For Petitioner : Mr.K.Ravi
For Respondent : Mr.A.P.Srinivas
Senior Standing Counsel for Income Tax
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ORDER

Captioned matter is in the Admission Board today.

2. Mr.K.Ravi, learned counsel on record for writ petitioner submitted that the writ petitioner has an alternate remedy i.e., an appeal under Section 246A(1)(ba) of 'The Income-tax Act, 1961 (43 of 1961)' [hereinafter 'IT Act' for the sake of brevity]' qua the impugned order which has been made *inter alia* under Section 153A read with Section 143(3) of IT Act.

3. Learned counsel for writ petitioner sought leave of this Court to withdraw the captioned writ petition but made a plea to preserve all the rights and contentions of the writ petitioner to canvass the same in a statutory appeal which the writ petitioner intends to file and pursue. Learned counsel has made an endorsement in the case file and a scanned reproduction of the same is as follows:

Permission to
withdraw the W.P
with preserving
the right to file
an appeal under the Act

K.RAM.

4. Aforementioned endorsement is reiterated in the hearing.

5. Learned counsel also submits that it may be necessary to file the appeal with 'Condonation of Delay' ['COD'] application *inter alia* under Section 249(3) of IT Act as the intended appeal would get slotted under Section 249(2)(b) of IT Act. If the writ petitioner moves COD application before the Appellate Authority, it is open to the Appellate Authority to consider the same on its own merits and in accordance with law uninfluenced by this order. Though obvious, it is made clear that there is no expression of opinion or view in this order.

M.SUNDAR, J.,

mk

6. Captioned Writ Petition disposed of as withdrawn / closed albeit preserving all the rights and contentions of the writ petitioner in the manner set out supra. Consequently, connected Writ Miscellaneous Petition is closed. There shall be no order as to costs.

13.12.2022
(1/6)

Index: Yes/No
Speaking / Non-speaking order

mk

To

The Assistant Commissioner of Income Tax
Office of the Assistant Commissioner of Income tax
Central Circle 1(4)
Chennai-34.

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