IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2022

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.Nos.16886, 16893, 16888, 16890, 16896 and 16899 of 2022
and
WMP.Nos.16187, 16188, 16189, 16194, 16196, 16198 16190, 16191 16192, 16193, 16195, 16197, 16199, and 16200, 16201 of 2022

1.Mr.J.M.Thajutheen
2.Zeenath Thajutheen
3.J.M.H.Ashika
4.T.Mohamed Hasim
5.T.Mohamed Haris
6.B.Suresh
7.P.Chacko Mathew ... Petitioners in all W.Ps.

Vs

1.Addittional/Joint/Deputy/Assistant Commissioner of
Income Tax/ Income Tax Officer
National Faceless Assessment Centre
Delhi.

2.Deputy Commissioner of Income Tax, Circle-1,
121, Adam Plaza, 60 Feet Road,
Tirupur – 641 602. ... Respondents in all W.Ps.

Prayer in W.P.No.16886 of 2022: Writ Petition filed under Article 226 of the Constitution of India, to issue Writ of Certiorari, calling for the records relating to the order or Respondents in ITBA/AST/S/147/2021-22/1042070326(1) and quash the order dated 30.03.2022 passed therein under Section 147 r.w.s.144, r/w.144B of the Income Tax Act, 1961 relating to AY.2015-16.

Prayer in W.P.No.16893 of 2022: Writ Petition filed under Article 226 of the Constitution of India, to issue Writ of Certiorari, calling for the records relating to the order or Respondents in ITBA/AST/S/147/2021-22/1042239132(1) and quash the order dated 31.03.2022 passed therein under Section 147 r.w.s.144, r/w.144B of the Income Tax Act, 1961 relating to AY.2017-18.

Prayer in W.P.No.16896 of 2022: Writ Petition filed under Article 226 of the Constitution of India, to issue Writ of Certiorari, calling for the records relating to the order or Respondents in ITBA/AST/S/147/2021-22/1042238956(1) and quash the order dated 31.03.2022 passed therein under Section 147 r.w.s.144, r/w.144B of the Income Tax Act, 1961 relating to AY.2016-17.

Common Prayer in W.P.Nos.16888, 16890 and 16899 of 2022: Writ Petition filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, directing the respondents to consider the rectification petition dated 05.05.2022 filed by the petitioner under Section 154 of the Income Tax Act, 1961 in its proper perspective and pass appropriate order in accordance with law.

In all W.Ps.

For Petitioners : Mr.V.S.Jayakumar

For Respondents : Mr.ANR.Jaya Prathap
Junior Standing Counsel

COMMON ORDER

WMP Nos.16187, 16195, 16194, 16190, 16200, 16192 of 2022 filed seeking permission to file a single Writ Petition is ordered on payment of separate Court fee.

2. Mr.ANR.Jayaprathap, learned Junior Standing Counsel accepts notice for the respondents and is armed with instructions to proceed with the matter

finally even at this juncture. Hence, by consent of both sides, these Writ Petitions are taken up for final disposal even at the stage of admission.

3. The challenge is to three orders of assessment in W.P.Nos.16886, 16896 and 16893 of 2022 for assessment years 2015-16, 2016-17 and 2017-18, dated 30.03.2022, 31.03.2022 and 31.03.2022 respectively, passed under Section 147 read with Section 144 read with Section 144B of the Income Tax Act, 1961 (in short 'Act'.). The remaining Writ Petitions, viz., W.P.Nos.16890, 16888 and 16899 of 2022, are for mandamus directing the respondents to consider and pass orders on the rectification applications, all dated 05.05.2022 filed under Section 154 of the Act.

4. It is seen from the narration of facts in regard to the procedure followed by the officer as set out in the course of the impugned order itself, that notice under Section 148 of the Act were issued to the petitioners on 26.03.2021. The petitioners did not bother to respond. No return was filed, nor was any explanation furnished in regard to why the return is not liable to be filed in the case of the petitioners.

5. A questionnaire under Section 142(1) was thereafter issued on 15.11.2021, in response to which the petitioners replied on 07.12.2021, stating that the firm to which the notice has been sent is no longer in existence, as it has been succeeded by a company. It is relevant to state that the aforesaid

response has been addressed to the Assessing Officer by *'Mr.Mohammed Thajudeen, Partner, Frontier Knitters, 64, Process Server Street, Tirupur – 641 601'*.

6. It is also an admitted position that the address of the firm and the company is one and the same. Thereafter, the Assessing Authority has once again issued notice under Section 142(1) of the Act on 09.03.2022 calling upon the company to respond by 11.03.222. Admittedly, the petitioners have not responded to this notice as well. It is in these circumstances that the impugned orders of assessment have come to be passed, on 30.03.2022, 31.03.2022 and 31.03.2022 respectively.

7. I find no infirmity in the procedure followed by the Assessing Authority and also find that sufficient opportunity has been granted to the assessees to make their submissions and such opportunities have not been availed. The mere filing of letter dated 07.12.2021 will not exonerate the petitioners from not responding to the earlier and subsequent notices issued and I am of the considered view that no infirmity is made out warranting interference in the impugned orders under Article 226 of the Constitution of India.

8. In light of the above, W.P.Nos.16886, 16893 and 16896 of 2022 stand dismissed. No costs. Connected Miscellaneous Petitions are also dismissed.

9. In regard to the relief sought for in W.P.Nos.16890, 16888 and 16899 of 2022 seeking a mandamus directing the respondents to consider and pass orders on the rectification applications, all dated 05.05.2022, seeking rectification of errors under Section 154 of the Act, learned Standing Counsel would submit that a time frame may be fixed for disposal of the same.

10. In light of the above, the respondents are directed to dispose rectification applications, all dated 05.05.2022, within a period of sixteen (16) weeks from date of receipt of a copy of this order, after hearing the petitioner.

11. W.P.Nos. 16890, 16888 and 16899 of 2022 stand disposed as above.

12.07.2022

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Index : Yes/No
Speaking Order/Non speaking Order

To

1.Addittional/Joint/Deputy/Assistant Commissioner of
Income Tax/ Income Tax Officer
National Faceless Assessment Centre
Delhi.

2.Deputy Commissioner of Income Tax, Circle-1,
121, Adam Plaza, 60 Feet Road, Tirupur – 641 602.

DR.ANITA SUMANTH, J.

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and
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