IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2022

CORAM :

The Hon'ble Mr.JUSTICE M.SUNDAR

W.P.No.33441 of 2022
and
W.M.P.No.32890 of 2022
in
W.P.No.33441 of 2022

Sapna
W/o.Adesh Kumar Jain
No.1/16, Gajananaa, Flat F-2, 1st Floor
Balu Street, Thiruvanmiyur,
Chennai-600 041. .. petitioner

Vs.

1. The Income Tax Officer
National Faceless Assessment Centre
Income tax Department
Ministry of Finance,
Room No.410, 2nd Floor, E-Ramp
Jawaharlal Nehru Stadium
Delhi - 110 003.

2. The Income Tax Officer
Non Corp Ward 7(3), Aaykar Bhavan
New Building, M.G.Road,
Nungambakkam, Chennai-600 034.

3. The Commissioner of GST
Jurisdiction (Centre)
Commissionerate - Delhi West
Janakpuri (Range - 132). .. Respondents

Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents, more particularly 1st and 2nd respondents from conducting further proceedings in and connected with the notice issued under Section 142(1) of the Income Tax Act, 1961 with respect to PAN No.APDPS1024C till the disposal of the complaint dated 2.5.2021 made with the 3rd respondent.

For Petitioner	:	Mr.B.Satish Sundar
For Respondents	:	Mr.Prabhu Mukunth Arunkumar Junior Standing Counsel

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<u>O R D E R</u>

Captioned writ petition is in the Admission Board.

2. Writ petitioner was visited with a notice under Section 142(1) of 'the Income-tax Act, 1961 [43 of 1961]' [hereinafter 'IT Act' for the sake of convenience and clarity] qua PAN No.APDPS1024C, writ petitioner had sent a response dated 02.05.2021 *inter alia* contending that her PAN card has been misused. Captioned writ petition has been filed with a prayer to keep the proceedings pursuant to the aforementioned Section 142(1) of IT Act notice in abeyance till the writ petitioner's 02.05.2021 response is considered and decided.

3. Today, in the Admission Board Mr.B.Satish Sundar, learned counsel on record for writ petitioner is before this Court.

4. Mr.Prabhu Mukunth Arunkumar, learned Junior standing counsel accepts notice for respondents 1 and 2.

5. Learned counsel for writ petitioner and the aforementioned learned Revenue counsel submit in one voice that an assessment order dated 09.12.2022 has since been made (pursuant to aforementioned Section 142(1) notice).

6. A copy of the assessment order as placed before this Court is as follows:

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT

1	PAN	APDPS1024C
2	Name of the assessee	SAPNA
3	Address of the assessee	2-A GOUTHAM VILLA, BALU STREET THIRUVANMAYUR, CHENNAI 600041, Tamil Nadu, India
4	Assessment Year	2021-22
5	Status	INDIVIDUAL
6	Residential Status	Resident
7	Date of filing of Return of Income	14/03/2022
8	Acknowledgement Number of Return of Income	347389260140322
9	Date of processing u/s 143(1)(a) of the Income-tax Act	12/04/2022
10	Income Computed under section 143(1) of the Act	
11	Date of service of Notice under section 143(2) of the Income tax Act	28/06/2022,28/06/2022
12	Date(s) of issue of Notice(s) under section 142(1) of the Income tax Act	07/09/2022,13/11/2022,28/11/2022
13	Order passed under section	143(3) read with section 144B of the Income-tax Act
14	Returned Income	Rs. 4,22,100
15	Date of Order	09/12/2022
16	DIN	ITBA/AST/S/143(3)/2022-23/1047910743(1)

ASSESSMENT ORDER

1. Facts of the case in brief:-

The assessee is an individual filed her return of income for the Assessment Year 2021-22 declaring taxable income of Rs. 4,22,100/-. The case is selected for Complete Scrutiny under CASS to examine "Business Purchase".

Notice under Section 143(2) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') dated 28-06-2022 was issued to the assessee followed by notice under Section 142(1) of the Act.

2.Details of opportunities given:

Type of notice/communication	Date of notice/communication	Date of compliance given	Response of the assessee received/not received	Date of response if received	Response type (Full/partial/adjournment)	Remarks if any
143(2)	28-06-2022	13-07-2022	Not received		-	--
142(1)	07-09-2022	23-09-2022	Received	23-09-2022	Full	-
142(1)	18-11-2022	25-11-2022	Received	24-11-2022	Full	-
142(1)	28-11-2022	02-12-2022	Received	02-12-2022	Full	-

3. This is a Case where variation is not proposed:

3.1.Complete description of issues (issue wise)

The case is selected for Complete Scrutiny under CASS to examine "Business Purchases".

The Rationale is "*Assessee has made substantial purchases from such suppliers who are either Non-Filer(s) or have filed non-business ITR or reflected a substantially lower turnover in ITR as compared to turnover shown in GSTR 1 return. There is a possibility that assessee has booked bogus expenses in order to reduce its profit/taxable income. Therefore, the genuineness/ correctness of expenses related with these entities may be verified.*"

3.2 Synopsis of all submissions of the assessee relating to the issue and indicating the dates of submission.

Notice u/s 142(1) of the Act, was issued on 07.09.2022 requiring compliance by 13.07.2022 calling for details/documents. The contents of the notice is re-produced here below:-

1. Please provide a detailed note on the business activity of your company, main source of revenue and a brief note on main and incidental business activities carried on by you.

2. Please furnish a copy of your P&L Account, balance sheet along with its schedules. Please furnish a copy of 26AS.
3. Please furnish a copy of your bank account extracts for all the banks for the period 01.4.2020 to 31.3.2021.
4. It is seen that you have revised your ITR twice for the A.Yr 2021-22. Please furnish the reasons for revision of your return.
5. You are requested to furnish the following details in respect of purchases made by you during the F.Yr 2020-21 in the following format.

Name, address, PAN and GST registration number of the parties from whom the purchases have been made.	Date of purchase	Copy of agreement if any	Product details		
			Item no.	Quantity	Amount

Details of transportation:

Date of transportation	Name and address of the transporter.	Vehicle number	Weight	Amount paid	TDS deducted

Details of payment:

Date of payment	Amount	Mode of payment with supporting documentary evidence	Amount payable at the end of the financial year	Details of TDS deducted, if any

6. Please furnish a copy of your purchase book and sales book for the period 01.4.2020 to 31.03.2021.

7. As per information available, it is seen that your turnover reported in ITR is NIL, whereas, in

GSTR 1.It is reported at Rs. 7,34,64,428/-. In this connection please furnish a copy of GSTR 1 and furnish copy of 3CB report along with sales ledger for the A.Y. 2021-22. Please explain for the variations, in the total turnover as reported in GSTR-1 and to that of ITR.

8.On scrutiny of your ITR for A.Yrs. 2021-21, it is seen that you have claimed Rs.1,79,398/- under chapter VIA deduction, i.e., Rs.1,50,000/- u/s 80C, Rs.10,398/- u/s 80D, Rs.10,000 u/s 80TTA. Please furnish documentary evidences/proof for the above claims made. Please furnish a copy of your pass book highlighting the interest received.

9.It is seen that you have claimed loss from house property to an extent of Rs.1,44,000/-. In this connection, please furnish the details of loan availed, bank loan sanction letter, interest certificate etc. in order to claim the said amount. Please also furnish details of brought forward loss of Rs.4,46,950/- claimed in your return.

10.Please furnish the details in respect of deposits made in banks & other financial institutions along with the sources for the said deposit made, Year of deposit etc.,

In response to the above notice, the assessee replied on 23.09.2022 and stated about the business activities that she is neither involved in any trading activity thereby nor applied for GST number. She disclaim the reported information in 26-AS in respect to GST under her PAN. The assessee has furnished the following information/details as requisitioned in notice issued u/s. 142(1) of the Income tax Act.

a.NOTE ON BUSINESS ACTIVITY:

The assessee is a partner in M/S ANAND AUTO PARTS, NO.23, G.P. ROAD, CHENNAI-600002 registered firm assessed to income tax under PAN NO. ABJFA3727G and her main source of Income is share of Profit/Interest & Remuneration received from Firm. Beside this she earned rental income shown in ITR also. The assessee has furnished Balance sheet, Profit & Loss Account, extract copy of bank accounts for the period from 01.04.2021 TO 31.03.2022. The assessee has also confirmed that she had filed revised ITR twice for the A.Y.2021-2022 due to omission of capital gain from sale of Mutual Fund which not disclosed in the original ITR filed. Since she is not involved in trading business, books of accounts for maintain purchase & sales have not been maintained. Therefore, turnover reported in ITR file for the A.Y.2021-2022 was NIL and never applied for GST number and she disown the information available with department reported turnover at Rs.734,64,428/-against her PAN. She stated that someone misusing her PAN and has applied for GST and carried out transactions reported in GSTR-1. In this regard, she has lodged complaint with Commissioner of GST, Jurisdiction Centre, Commissionerate –DELHI WEST, Janakpuri (RANGE – 132) Office on 04.05.2021 on GST portal. The assessee has submitted her objection with grievances cell of Income tax department.

b.CLAIM UNDER CHAPTER VIA TO AN EXTENT OF RS. 1,70,398/-

In the instant case, it is observed from the ITR that the assessee has claimed Rs. 1,70,398/- under chapter VIA deduction i.e. Rs. 1,50,000/-u/s. 80C, Rs. 10,398/- u/s. 80D, and Rs. 10,000/- u/s. 80TTA. In this regard, the assessee was asked to furnish documentary evidences/proof for these claims made in her ITR filed for A.Y. 2021-22.

In this connection, the assessee has furnished copies of statement of saving and current accounts. On perusal of saving account's statement bearing A/c. no. 6912436221 maintained with Kotak Mahindra Bank at Mount Road Branch it is seen that the assessee has made investments in mutual funds through banking channels only and transactions are highlighted in bank statement also.

The assessee has claimed Rs. 10,398/- u/s. 80D which are also done through banking channels only on 13.08.2022 to National Insurance Co Ltd and transaction are highlighted in bank statement also.

The assessee has claimed Rs. 10,000/- u/s. 80TTA same is verified with the copy of saving bank account's statement furnished by the assessee.

c. LOSS FROM HOUSE PROPERTY TO AN EXTENT OF RS. 1,44,000/-:

In the instant case, it is observed from the ITR that the assessee has claimed loss from house property to an extent of Rs.1,44,000/-. In this connection, the assessee was asked to furnish the details of loan availed, bank loan sanction letter, interest certificate etc.

In response to this, the assessee has furnished bank loan sanction letter and certificate issued by bank for repayment & interest to substantiate her claim loss from house property to an extent of Rs. 1,44,000/- same is verified and found in line as per assessee's claim.

Further, notice u/s. 142(1) of the Act, issued to the assessee, requesting to furnish *reply or report, if any, received from GST Commissioner or any public authority on your complaint.*

In response to the above notice, the assessee replied on 24.11.2022 and stated that she is not involved in any trading activities and someone has misused and applied GST number by quoting her PAN. In this connection, she has already requested before Commissioner of GST vide ARN AA070721017852C on 07.07.2021 but not received any reply from GST Commissioner or any public authority. The copy of the same also furnished by the assessee.

The notice u/s. 133(6) of the Act also issued to the Commissioner of GST, Jurisdiction (Centre), Commissionerate- Delhi West, Janakpuri (Range 132), Delhi and requested to furnish the outcome of the enquiry in this case and also requested to furnish a report about the genuineness of purchases made in the said transaction. However, the Commissioner of GST has not responded.

The details furnished have been duly verified and after verifying all the documents furnished by the assessee, no adverse inference could be noticed, the assessment is concluded accepting the returned income.

In view of the above and verification of the details, claim made by the assessee is found to be in order and accordingly no adverse inference is drawn.

Prima facie no other issues of revenue implication are found.

In view of the above the assessment is completed under Section 143(3) rws 144B of the Income Tax Act,1961 by accepting the returned income of the assessee.

4.Table of variations :

Sl No	Description	Amount (in INR)
1	Income as per Return of Income filed	Rs. 4,22,100/-
2	Income as computed u/s143(1)(a)	
3	Variation in respect of issue of <> (if any)	NA
4	Variation in respect of issue of <> (if any)	NA
5	Total Income/Loss determined as per the above proposal	Rs. 4,22,100/-

[illegible]
A.Y. [illegible]
[illegible]

Assessment Unit
Income Tax Department

Copy to:

Assessee

Assessment Unit
Income Tax Department

INCOME TAX DEPARTMENT

7. Both learned counsel submit that in view of the aforementioned trajectory the matter has taken, captioned writ petition has become infructuous. Both sides submit that the captioned writ petition may please be disposed of as closed having become infructuous.

8. Captioned Writ Petition disposed of as closed having become infructuous. Consequently, captioned Writ Miscellaneous Petition is also

disposed of as closed. Though obvious, it is made clear that there is no expression of opinion or view on merits in this order. There shall be no order as to costs.

13.12.2022

Index: Yes/No
Speaking / Non-speaking order

mk

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M.SUNDAR, J.,

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