IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2023

CORAM :

The HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.1797 of 2023
and
WMP Nos.1910, 1911 and 1913 of 2023

Murugeshan Rathinavel Subramaniam ... Petitioner

vs

1. The Assessment Unit,
Income Tax Department,
National e-Assessment Centre,
Delhi,
E-Ramp,
Jawaharlal Nehru Stadium,
Delhi - 110 003.

2. The Principal Commissioner of Income Tax,
Coimbatore,
Income Tax Department,
67-A, Race Course Road,
Coimbatore - 641 018. ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the writ petitioner on the file of the first respondent to quash the impugned order dated 22.12.2022 passed under Section 143(3) read with section 144B of the Act for the Assessment Year 2021-22 in DIN: ITBA/AST/S/143(3)/2022-23/1048172602(1).

For Petitioner : Mr.S.Sridhar

For Respondents : Ms.S. Premalatha,
Junior Standing Counsel
for Mr.R.S. Balaji,
Senior Standing Counsel

ORDER

The petitioner has challenged the impugned Assessment Order dated 22.12.2022 in respect of Assessment Year 2021-22 on the ground of violation of principles of natural justice.

2. Heard Mr.S.Sridhar, learned counsel for the petitioner, Ms.S.Premalatha, learned Junior Standing Counsel appearing for the respondents.

3. As seen from the impugned Assessment Order, there is no reference to the adjournment request made by the petitioner on 16.12.2022 seeking further time of ten days for responding to the show cause notice issued by the respondent on 13.12.2022. The adjournment request was uploaded by the petitioner in the webportal of the

respondents on 16.12.2022, which is the deadline fixed under the show cause notice dated 13.12.2022. As per the communication sent by the petitioner on 16.12.2022, he had sought time to send a reply to the show cause notice dated 13.12.2022 till 24.12.2022. The petitioner has also filed a screen shot of the webportal which discloses that the petitioner had sent a communication to the respondent on 16.12.2022 requesting ten days time for submitting his reply to the show cause notice dated 13.12.2022 on the ground that he is not in station.

4. A counter affidavit has also been filed by the respondents and as seen from the counter affidavit, the respondents have stated that on verification of case history notings and e-proceedings module in the filing webportal, the adjournment sought for by the petitioner by his communication dated 16.12.2022 is not reflected which is not correct in view of the evidence having been placed before this Court by the petitioner. As seen from the screen shot from the webportal of the respondent the petitioner had sent a communication on 16.12.2022 to the respondents requesting for grant of another ten days time to send his reply to the show cause notice dated 13.12.2022 issued by the respondents. The petitioner has also submitted grievance petitions to the

respondents for being unable to file the response due to the closure of the e-submissions by the respondents in their webportal. The grievance petitions are dated 19.12.2022 and 22.12.2022. Insofar as the grievance petitions are concerned, the respondents have not stated anything about the same in their counter affidavit. As seen from the impugned Assessment Order, the show cause notice was issued by the respondents on 13.12.2022 and the impugned Assessment Order has been passed on 22.12.2022, within a short period even though a request was made by the petitioner by his communication dated 16.12.2022 seeking for ten days time to submit a reply to the show cause notice dated 13.12.2022. The tax liability of the petitioner as seen from the impugned Assessment Order is determined at Rs.71,45,657, which is a huge sum and therefore, sufficient opportunity ought to have been granted to the petitioner by the respondents to raise all objections available to him under law before passing the Assessment Order. Having issued the show cause notice only on 13.12.2022 and the respondents having not granted sufficient time for the petitioner to submit a reply despite a specific request having been made by him on 16.12.2022 which is the deadline fixed for sending the reply and that too when the tax liability determined under the impugned order is a huge sum, this Court is of the considered view that principles of natural justice has been violated by the respondents and the impugned Assessment Order has to be quashed and the matter will have to be remanded back to the respondents for fresh consideration on merits and in accordance with law, within a time frame to be fixed by this Court.

5. This Court is not expressing any opinion on the merits of the matter. It is for the respondents to consider the same on merits after adhering to the principles of natural justice.

6. For the foregoing reasons, the impugned Assessment Order, dated 22.12.2022 is hereby quashed and the matter is remanded back to the first respondent for fresh consideration on merits and in accordance with law. The petitioner is directed to submit a reply to the show cause notice dated 13.12.2022, within a period of two weeks from the date of receipt of a copy of this order. The first respondent shall pass final orders, within a period of twelve weeks thereafter, after adhering to the principles of natural justice. The respondents shall enable their webportal to allow the petitioner to submit his reply.

7. With the aforesaid directions, this writ petition is disposed of.

No costs. Consequently, connected miscellaneous petitions are closed.

23.02.2023

(1/2)

Index:Yes/No
Neutral Citation:Yes/No
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To
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2. The Principal Commissioner of Income Tax,
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ABDUL QUDDHOSE, J.

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