IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **13.02.2023**

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.4064 of 2023
and
W.M.P.No.4110 of 2023

AA 282, Kolappalur Primary Agricultural
Coop Credit Society Limited,
Rep. by its Secretary,
328, G D Road,
Kolappalur,
Gobichettipalayam,
Erode - 638 456. ... Petitioner

Vs.

1. The National Faceless Assessment Centre,
2nd floor, E-Ramp,
Jawaharlal Nehru Stadium,
New Delhi - 110 003.

2.The Assessment Unit,
Income Tax Department,
National Faceless Assessment Centre,
2nd floor, E-Ramp,
Jawaharlal Nehru Stadium,
New Delhi - 110 003. ... Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the entire records pertaining to the impugned exparte best Judgment Assessment for the assessment year 2020-21 under Section 144 of the Income Tax Act dated 20.09.2022 vide order No.Impugned Order dated 20.09.2022 vide ITBA/AST/S/144/2022-23/1045739358(1) passed on the file of the 2nd respondent and quash the same as arbitrary, against the principles of natural justice and total inconformity with the provisions of the Income Tax Act, 1961.

For Petitioner : Mr.K.Vasanthanayagan

For Respondents : Mr.R.S.Balaji
Standing Counsel
Assisted by
Mrs.S.Premalatha
Junior Standing Counsel

ORDER

The petitioner has challenged the best judgment assessment order dated 20.09.2022 for the assessment year 2020-21 on the ground that they have not received the draft assessment order and principles of natural justice has been violated.

2. Admittedly, as seen from the impugned assessment order several opportunities were given to the petitioner to respond to the notices sent by the respondents under Section 143 (2) as well as under Section 142 (1) of

the Income Tax Act. The details of the notices sent to the petitioner by the respondent which were not responded to by the petitioner are as follows:

Sl.No.	***Date***	***Description***	***E-mail Details***	***Due Date***	***Assessee Response***
1	29.06.2021	143 (2) Notice	Delivered	14.07.2021	No response
2	29.10.2021	142 (1) Notice	Delivered	05.11.2021	No response
3	09.11.2021	142 (1) Notice	Delivered	12.11.2021	No response
4	27.01.2022	142 (1) Notice	Delivered	03.02.2022	No response
5	13.07.2022	142 (1) Notice	Delivered	21.07.2022	No response
6	26.07.2022	142 (1) Notice	Delivered	03.08.2022	No response

3. The petitioner also admits that the final show cause notice dated 09.08.2022 was also received by them. But, however, contends that eventhough they sought fifteen days time to submit a reply, within a period of three days, the impugned assessment order has been passed. In the impugned assessment order, it is observed that the petitioner acknowledged the show cause notice dated 09.08.2022 on 17.09.2022 and requested fifteen days time to furnish the details / documents. The respondents have also given reasons as to why further time cannot be granted as they observed that the cases were getting time barred on 30.09.2022 and therefore, the petitioner's request for grant of time to furnish details cannot be considered by the respondents.

4. This Court does not find any infirmity in the reasons given by the respondents for rejecting the petitioner's request for grant of further time to submit a reply and to furnish copies of the details / documents. Taking note of the fact that the petitioner has been provided with sufficient opportunities to respond to the notices sent by the respondents, as seen from the tabular column referred to supra, no further time can be granted to the petitioner to submit a reply as rightly held by the respondents under the impugned assessment order.

5. The petitioner has expressed financial difficulties in paying the pre-deposit amount. Learned counsel for the petitioner seeks sufficient time for the petitioner to mobilize the funds to enable the petitioner to file a Statutory Appeal as against the impugned assessment order. Being an assessment order, this Court deems it fit to grant time to the petitioner to file a Statutory Appeal as against the impugned assessment order.

6. The petitioner has not made out any case for interference by this Court under Article 226 of the Constitution of India as the principles of

natural justice has not been violated by the respondents. This Court deems it fit to grant four weeks time for the petitioner to file the Statutory Appeal as against the impugned order before the Statutory Appellate Authority.

7. For the foregoing reasons, this Writ Petition is disposed of by directing the petitioner to file the Statutory Appeal as against the impugned assessment order dated 20.09.2022 before the Statutory Appellate Authority within a period of four weeks from the date of receipt of a copy of this order. On receipt of the said Appeal, within the stipulated time, the Statutory Appellate Authority shall entertain the same and decide the matter on merits and in accordance with law without reference to the limitation.

8. With the aforementioned directions, this Writ Petition is disposed of. No Costs. Consequently, the connected Writ Miscellaneous Petition is closed.

13.02.2023

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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To

1. The National Faceless Assessment Centre,
2nd floor, E-Ramp,
Jawaharlal Nehru Stadium,
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2.The Assessment Unit,
Income Tax Department,
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ABDUL QUDDHOSE. J.,

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