IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.10.2023

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.5027 of 2022
and
W.M.P.No.5141 of 2022

Vidya Ravichandran

... Petitioner

Vs.

1.Income Tax Officer,
Ward 29(2),
Civic Centre, Minto Road,
New Delhi 110002.

2.Additional/Joint/Deputy/Assistant Commissioner of
Income Tax/Income Tax Officer,
National Faceless Assessment Centre,
New Delhi.

3.Income Tax Officer,
Non-Corporate Ward 22(5),
Office of the Income Tax Officer,
Ramakrishna Street,
Tambaram West, Chennai 600 045.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned assessment order dated 26.11.2019 bearing Document No.20121057533 passed under Section 144 read with Section 147 of the Income Tax Act, 1961 for the Assessment Year 2012-13, by the first respondent and quash the same.

For Petitioner : Ms.T.V.Muthuabirami

For Respondent : Dr.B.Ramanakumar
Standing counsel

ORDER

This writ petition has been filed challenging the assessment order dated 26.11.2019 bearing Document No.20121057533 passed by the first respondent.

2. The learned counsel for the petitioner would submit that the petitioner was resident of New Delhi till 2008 and thereafter, she had shifted her residence to Chennai. She is 65 years old and she had deposited some amount, which was earned from her husband's business, out of which she has been receiving some interest as income. Further, it was submitted that from the assessment year 2017-18, she has been

regularly filing returns. However, the impugned assessment order was passed under Section 144 read with 147 of the Income Tax Act, 1961 (hereinafter called as "IT Act") by the Delhi circle and they have sent all the correspondence to the petitioner to her Delhi address of the petitioner. Since the petitioner had shifted her residence in the year 2008 itself, she had not received any of the correspondences.

3. Further, the learned counsel would contend that though the said assessment order was passed on 26.11.2019, she came to know about the same only after the receipt of notice from Tambaram Circle in the year 2022. Therefore, the learned counsel would submit that the said assessment order came to be passed without providing any opportunity to the petitioner. She would also contend that since the petitioner is a senior citizen and she is not well-versed in operating the computer and in perusing the e-mails regularly, one last opportunity shall be provided to the petitioner to submit her reply before the respondent in person and to satisfy them. Hence, the present writ petition.

4. Per contra, the learned counsel for the respondent would submit that there is no fault on the part of the Department/respondent, since they have sent several remainders to the petitioner. The petitioner had shifted her residence without any intimation to the respondent and hence, the respondent had sent all the correspondence to the Delhi address of the petitioner. Since, there is no response or reply from the petitioner, the said assessment order came to be passed. Further, he vehemently opposed the request made by the learned counsel for the petitioner. However, he would fairly submit that if this Court directs the respondent to provide an opportunity to the petitioner, the respondent will provide the same and pass appropriate orders.

5. Heard the learned counsel for the petitioner and the respondent and also perused the materials available on record.

6. Upon hearing, this Court is of the view that it is an admitted fact that the petitioner was initially resided at New Delhi and she had shifted her residence from Delhi to Chennai in the year 2008 itself and hence,

she was not at Delhi when the assessment order was passed on 26.11.2019. All the correspondence were sent to the old residence of the petitioner and the same was intimated to the petitioner only in the year 2022, when she received intimation from Tambaram Circle. Immediately after the receipt of said intimation, the petitioner had filed the present writ petition, since the assessment order came to be passed without providing any opportunity to the petitioner. However, it was fairly submitted by the learned counsel for the petitioner that if one last opportunity is provided to the petitioner to file her reply, she will be able to put forth her case before the respondent and satisfy them by stating that she is not having any business on her own and she is only living on the interest income.

7. Considering the submission made by both the learned counsel, this Court is inclined to set aside the impugned order dated 26.11.2019 and accordingly the said impugned order is set aside. While setting aside the said impugned order, this Court is remanding back this matter to the Department/respondent, in which case, the Department/respondent is

directed to provide an opportunity to the petitioner for filing reply and also for personal hearing and thereafter, the appropriate orders shall be passed.

8. With the above directions, this writ petition is disposed of. Consequently, the connected miscellaneous petition is also closed.

09.10.2023

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa

KRISHNAN RAMASAMY.J.,
nsa

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09.10.2023
(1/2)