IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2023

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.7394 of 2020
and
W.M.P.Nos. 8845 & 8846 of 2020

Praveen Kumar .. Petitioner

vs

Income Tax Officer, Ward -2,
Income Tax Office, DP Thottam,
Behind Ananda Inn, MG Road,
Puducherry (UT) – 605 003. .. Respondent

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records on the file of the respondent in PAN : ANYPP4658G for the assessment year 2012 - 13 in passing the impugned assessment order under Section 144 r/w Section 147 of the Income Tax Act, 1961 dated 28.11.2019 and quash the same as illegal, arbitrary and bad in law.

For Petitioner	:	Mr.Sreedhar for Mr.J.Kumaran
For Respondent	:	Mr.R.S.Balaji Senior Standing Counsel

ORDER

The petitioner has challenged an order of re-assessment passed under the provisions of the Income-Tax Act, 1961 which is dated 28.11.2019 passed ex-parte under Section 144 read with Section 147 of the Income Tax Act, 1961 (in short, 'Act'). The sole ground of challenge is that notice under Section 148 has not been issued / served in a manner as contemplated under the Act and thus order of assessment is itself liable to be quashed.

2. The petitioner, admittedly, was residing at 'No.11A, Narayanandass Street, Kamaraj Nagar, Pondicherry 605 001' (address 1). He had shifted to 'No.21, 9th Cross Street Extension West, Rainbow Nagar, Puducherry' (address 2). He alleges that notice under Section 148 has not been issued to either address.

3. However, summons issued on 28.09.2019 has been duly served on 28.09.2019 and final hearing notice dated 08.11.2019 has been served on him on 16.11.2019 and learned counsel for petitioner agrees, the petitioner has well received. The petitioner has not filed a return of income for assessment year (AY) 2012 – 13, either original or in compliance with notice under Section

148, nor has he responded to the notices sent.

4. Records were called for and they reveal the following events as supported by documents. Notice under Section 148 of the Act dated 29.03.2019 has been issued on 30.03.2019. There is an entry in the postal register in support of this. The unserved cover was returned by the postal authorities on 13.04.2019 and there is an endorsement to that effect by the authority which is placed on record. The postal authority has written the new address i.e., address 2, on the returned cover. With this, service is complete.

5. However, over enthusiastically and by way of abundant caution, the notice under Section 148 has been sent yet again on 31.07.2019 and this has been received by one 'A.Lakshmi' on 31.07.2019. According to petitioner, there is nobody by that name in that address. However, this is really irrelevant, since service of notice under Section 148 on the petitioner is already been complete even at first instance.

6. That apart, notices had been repeatedly issued even thereafter and admittedly served on the petitioner to which the petitioner has not bothered to respond. Thus, I find no infirmity in

the impugned order of assessment both in regard to the procedure followed by the officer or as far as service of notice is concerned. This writ petition is thus dismissed, though with liberty.

7. The petitioner seeks time to file statutory appeal and is granted two weeks from today for such purpose. Appeal, if filed within the period as aforesaid, shall be entertained by the Registry of the first Appellate Authority without reference to limitation but ensuring compliance with all other aspects. Interim protection granted pending writ petition is vacated. No costs. Connected miscellaneous petitions are closed.

12.06.2023

Index:Yes/No
Neutral Citation:Yes
ssm

To

The Income Tax Officer, Ward -2,
Income Tax Office, DP Thottam,
Behind Ananda Inn, MG Road,
Puducherry (UT) – 605 003.

DR. ANITA SUMANTH,J.

ssm

W.P.No.7394 of 2020

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