IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2023

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THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

W.P.No.24709 of 2023
and
W.M.P.Nos.24136 & 24137 of 2023

Mr.Ekambaram Ganesh Babu ... Petitioner

Vs

The Income Tax Officer,
Corporate Ward 2(1),
Assessment Unit,
Income Tax Department,
Chennai. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the DEMAND NOTICE (Din & Notice No:ITBA/AST/2022-2023/1050379410(1)), u/s.156 of the Income Tax Act, 1961 dated 03.03.2023, ordered by respondent to pay Rs.1,49,79,212/- and to quash the Assessment Order under Section 147, read with Section 144B of the Act in PAN-ANDPG3772D and direct the respondent to conduct Reassessment proceedings for the Assessment Year 2018-2019.

For Petitioner : Mr.Rajasekar

For Respondent : Mr.Prabhu Mukunth Arun Kumar
Junior Standing Counsel
and
Mr.B.Ramana Kumar
Senior Standing Counsel

ORDER

The petitioner is claiming himself to be a NRI has challenged the Impugned Assessment Order dated 30.03.2023 and the consequential notice of demand under Section 156 of the Income Tax Act, 1961.

2. The specific case of the petitioner is that the property which was jointly owned by the petitioner along with his brother and sister was released in favour of the petitioner in the year 2002 by his brother and sister, wherein the value of the petitioner was shown as Rs.1,50,000/- for the purpose of payment of stamp duty. However, the value of the property would have been much higher and that the same property was sold by the petitioner during the Financial Year 2017-2018.

3. The specific case of the petitioner is that the petitioner is not a regular assessee under the provisions of the Income Tax Act, 1961. It is submitted that the Impugned Assessment Order has not correctly computed the income and has added income which are not taxable.

4. That apart, it is submitted that the age of the building was 45 years as on 15.03.2018 at the time of sale and therefore the capital gains worked out in the Impugned Order is not correct and liable to be interfered with.

5. There are several disputed questions of fact involved in this case. The scope of interference under Article 226 of the Constitution of India is limited where the order is passed without jurisdiction or where the order passed is arbitrary or it is in violation of principles of natural justice.

6. Issues relating to assessment and the manner of the computation of the income is better left to be decided by the Appellate Authority under the hierarchy of Appellate Authorities prescribed under the Income Tax Act, 1961.

7. Considering the above, the writ petition is dismissed with liberty to the petitioner to file a statutory appeal before the Appellate Authority within a period of thirty (30) days from the date of receipt of a copy of this order. If such appeal is filed within such time, the Appellate Authority shall dispose the appeal on merits and in accordance with law.

8. The writ petition stands dismissed with the above liberty. No cost. Consequently, connected miscellaneous petitions are closed.

28.08.2023

Neutral Citation: Yes/No
Index : Yes/No
Speaking/Non-Speaking Order
rgm

To

The Assistant Commissioner,
Aynavaram Assessment Circle,
F-50, 3rd Floor, Anna Nagar East,
Chennai – 600 102.

C.SARAVANAN, J.

rgm

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