IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **23.02.2023**

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.Nos.21622, 21635 and 21632 of 2022
and
W.M.P.Nos.20642, 20651 and 20655 of 2022

Pavithra Sugichandran ... Petitioner
In all W.Ps.

Vs.

The Assistant Commissioner of Income Tax,
Office of the Assistant Commissioner of Income Tax,
Central Circle 1 (4), Room No.323, 3rd Floor,
Investigation Building,
Chennai - 600 034. ... Respondent
In all W.Ps.

COMMON PRAYER: Writ Petitions have been filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the assessment order in PAN:CNPPS5755N having DIN No.ITBA/AST/M/153A/2021-22/1042317177(1), DIN No.ITBA/AST/M/153A/2021-22/1042318654 (1) and DIN No.ITBA/AST/M/153A/2021-22/1042319494 (1) all dated 30.03.2022 for Assessment Years 2018-19, 2019-20 and 2020-21 issued by the respondent, and quash the same as illegal.

For Petitioner
In all W.Ps. : Mr.K.Ravi

For Respondent
In all W.Ps. : Mr.A.P.Srinivas
Senior Standing Counsel

COMMON ORDER

These Writ Petitions have been filed challenging the respective assessment orders in respect of three assessment years viz., 2018-19, 2019-20 and 2020-21 on the ground that by total non application of mind to Section 153A of the Income Tax Act, even without any authorization for search in respect of the petitioner, search was conducted as per the provisions of Section 132 of the Income Tax Act.

2. Admittedly, if a search is conducted by applying Section 153A of the Income Tax Act, there should be a specific authorization. In the instant case, admittedly, there is no warrant authorization to conduct search as per Section 132 of the Income Tax Act on the petitioner.

3. Learned Standing Counsel appearing for the respondent has also received a written instruction from the Department which is dated 31.10.2022, admitting to the said fact. However, based on the said unauthorized search, the assessment orders have been passed, which have been challenged in this Writ Petition.

4. Since search under Section 132 of the Income Tax Act has not been conducted on the petitioner in accordance with law, the impugned assessment orders have to be necessarily quashed and the Writ Petitions will have to be allowed.

5. Accordingly, the impugned assessment orders all dated 30.03.2022 are hereby quashed and the Writ Petitions are allowed. However, liberty is granted to the respondent to proceed against the petitioner afresh by following the due procedure established under law. No Costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

23.02.2023

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

To

The Assistant Commissioner of Income Tax,
Office of the Assistant Commissioner of Income Tax,
Central Circle 1 (4), Room No.323, 3rd Floor,
Investigation Building,
Chennai - 600 034.

ABDUL QUDDHOSE. J.,

ab

W.P.Nos.21622, 21635 and 21632 of 2022

23.02.2023