IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.04.2023

C O R A M

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.11417 of 2023

and

W.M.P.Nos.11314 & 11316 of 2023

Lakshmi Jalladianpettai Lakshmanan

... Petitioner

Vs

1. The Income-tax Officer,
   Non-Corporate Ward 22(1),
   Ramakrishna Street, West Tambaram,
   Chennai-600 045.

2. The Principal Commissioner of Income-tax,
   No.121, M G Road, Nungambakkam, Chennai

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying to issue a writ, direction or order nature of Certiorari to call for the records on the file of the Respondent and quash the impugned order under Section 148A(d) of the Act, om PAN:AMPLPL8261H dated 16.03.2023 in Din:ITBA/AST/F/148A/2022-23/1050853238(1) along with the show cause notice (SCN) issued under Section 148A of the Act in PAN"AMLPL8261H dated 28.02.2023 in DIN:& Notice No.ITBA/AST/F/148A (SCN) 2022-2023/1050197865(1) for the A Y 2016-17 and the notice under Section 148 of the Act in PAN: AMLPL8261H dated 16.03.2023 in DIN & Notice No.ITBA/AST/S/148_1/2022-3/1050853353(1) for the assessment year 2016-17 passed by the Respondent as illegal and not in accordance with law.

For Petitioner ... Mr.B.Sakthivel

For Respondents ... Mr.Dr.B.Ramasamy,
Standing Counsel for R1 & R2

ORDER

Aggrieved by the show cause notice issued under Section 148A of the Income Tax Act, 1961, the petitioner is before this Court.

2. Mr.Dr.B.Ramasamy, learned standing counsel takes notice on behalf of respondents 1 & 2.

3. The case of the petitioner is that the petitioner has received the notice on the ground that the petitioner is has not filed return of income for the Assessment year 2016-17 and has not returned the income from sale of land. The assessee has responded to to the notice stated that the land sold was an

irrigation land admeasuring 29 cents, situated beyond the city limit. The grievance of the petitioner is the without considering the response of the petitioner, the 1st respondent has issued notice under Section 148(A) of the Act as to why the petitioner should not be chargeable to the tax for the escaped assessment. Aggrieved by the same, the petitioner has filed this Writ Petition challenging the said notice.

4. Learned counsel for the petitioner submits that the respondent has passed an order without affording an opportunity of personal hearing to the petitioner to put forth his case. Further, the respondent has not considered the case of the assessee which indicates that the land sold was an irrigation land situated beyond the city limit.

5. Per contra, learned standing counsel appearing for respondents 1&2 submits that it is only a show cause notice that has been issued. The impugned order is only a show cause notice and the petitioner will be provided sufficient opportunity of personal hearing before passing any final order. However, the petitioner has hurriedly approached this Court.

6. This Court heard the learned counsel appearing on either side and perused the materials available on record.

7. Admittedly, the impugned order is only a show cause notice granting the petitioner a time to file a response or reply. Without filing any response to the notice, the petitioner has approached this Court on the assumption that the respondents will not provide any opportunity of personal hearing to the petitioner.

8. Hence, this Writ Petition stands dismissed granting liberty to the petitioner to approach the 1st respondent by filing a proper response to the show cause notice. Upon receipt of such response, the 1st respondent is directed to pass final orders within a period of twelve weeks after affording an opportunity of personal hearing to the petitioner in accordance with law. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

13.04.2023

Index:Yes/No
Internet:Yes

NHS

To

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M.DHANDAPANI, J.

NHS

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