IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2023

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.15968 of 2023
and
W.M.P.Nos.15408, 15411, 15412 & 15414 of 2023

Suresh Ranka .. Petitioner

vs

1.The Assistant Commissioner of Income Tax,
Non Corporate Circle 7(1)
Income Tax Department,
No.121, Nungambakkam High Road,
Chennai – 34.

2.The Principal Commissioner of Income Tax,
Chennai -1
Income Tax Department,
No.121, Nungambakkam High Road,
Chennai – 34. .. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the writ petitioner company on the file of the first respondent to quash the impugned order dated 23.03.2023 passed under Section 147 read with section 144B of the Act for the assessment year 2015-16 in DIN : ITBA/AST/S/147/2022-23/1051180814(1) and further consequently to direct the said 1st respondent to grant reasonable opportunity of hearing before completing the re-assessment proceedings for the assessment year under consideration.

For Petitioner : Mr.A.S.Sriraman

For Respondent : Mr.A.P.Srinivas,
Senior Standing Counsel

ORDER

Read this order in conjunction with and in continuation of order dated 05.06.2023 that reads as follows:

> *"After some hearing, learned counsel for the petitioner states that the petitioner prefers to approach the statutory authority and seeks one week to enable the petitioner to file an appeal and stay application. accompanied by a stay application for interim protection.*
>
> *2.List on 13.06.2023*."

2. Today, Mr.Sriraman, learned counsel for the petitioner states that both appeal and the stay application has been filed before the National Faceless Appeal Centre (in short 'NFAC').

3. The impugned order in this case is dated 23.03.2023 and the Writ Petition has been instituted on 28.04.2023. Hence, the institution of the present writ petition has been a few days beyond the period of limitation.

4. Learned counsel for the respondents does not, bearing in mind the smallness of the period, fairly raise any objection to the maintainability of the appeal itself. Thus, subject to the appeal maintainable on all other aspects, the same shall be entertained by the Registry of the NFAC without reference to limitation.

5. In light of the same, this Writ Petition stands dismissed. Let notice be issued on the stay application fixing a date for personal hearing within a period of two weeks from date of receipt of a copy of this order, the petitioner heard on the date so fixed and the stay application disposed within a period of four weeks from date of personal hearing, i.e., on or before 25.07.2023. Till then, there shall be a stay of recovery of the demand.

6. It is made clear that if the petitioner does not appear on the date fixed by the NFAC, the petitioner loses the benefit of this order and the respondents are at liberty to proceed with the matter in accordance with law, as they think fit. No costs. Connected Miscellaneous Petitions are also dismissed.

13.06.2023

Index:Yes/No
Neutral Citation:Yes/No
ssm
To:

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Non Corporate Circle 7(1), Income Tax Department,
No.121, Nungambakkam High Road,
Chennai – 34.

2.The Principal Commissioner of Income Tax,
Chennai -1
Income Tax Department,
No.121, Nungambakkam High Road,
Chennai – 34.

DR. ANITA SUMANTH,J.

ssm

W.P.No.15968 of 2023

13.06.2023