IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.16175 of 2023
and
W.M.P.Nos.15564 and 15567 of 2023

Saraswathi ... Petitioner

Vs.

The Income Tax Officer,
Ward 1, No.1, Chairman Subbarayar Street,
West Shanmugapuram,
Villupuram - 605 602. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records in DIN and Notice No.ITBA/AST/F/148A/2023-24/1052093073 (1) dated 14.04.2023 on the file of the respondent relating to the Assessment Year 2016-2017, quash the same.

For Petitioner : Mr.G.Baskar

For Respondent : Dr.B.Ramaswamy
Senior Standing Counsel

ORDER

Dr.B.Ramaswamy, learned Senior Standing Counsel takes notice on behalf of the respondent.

2. The petitioner is aggrieved by the impugned Assessment Order passed by the respondent under Section 148A(d) of the Income Tax Act, 1961.

3. By the impugned order dated 14.04.2023, the respondent has passed the following order:-

> "4. After considering the information available on record and the reply of the assessee, the assessee has made the above-mentioned transaction for the assessment year under consideration. However, the assessee has failed to bring on record proper evidences to establish that the above mentioned transaction does not amount to escapement of income chargeable to tax. In view of the above, I conclude that for the transactions mentioned above of Rs.65,02,546/-, for which income chargeable to tax in the form of asset (Deposited cash and other credits to the tune of Rs.65,02,546/- in the Villupuram Co-operative Urban Bank Limited) which is more than Rs.50 Lakhs

had escaped for assessment for the Assessment Year 2016-17.

5. In view of the above facts, I am satisfied that it is a fit case for issue of notice under Section 148 of the I.T.Act for the Assessment Year 2016-17.

6. As per third proviso of Section 149(1) of the IT Act, the time available for issue of notice under 148 of the IT Act is up to 15.04.2023.

7. This order is passed with the prior approval of the Principal Chief Commissioner of Income Tax, Chennai."

4. The petitioner had not filed the returns in time. Instead, the petitioner had filed a manual return on 31.03.2018 wherein, the petitioner declared that the petitioner had received a sum of Rs.31,80,200/- from the sale (Actual Sale Consideration) of capital asset pursuant to a Sale Deed executed by the petitioner along with her sisters in favour of one M.Dhanasekaran.

5. The learned counsel for the petitioner has produced a copy of Sale Deed dated 22.06.2015 wherein, it has been stated that the petitioner had received a sum of Rs.31,80,200/- in cheque. The petitioner filed a return belatedly. Therefore, the petitioner was issued with a Notice under Section

148A(b) of the Income Tax Act, 1961, wherein, it has been stated as follows:-

"Sir/Madam/M/s

Whereas I have information which suggests that income chargeable to tax for the Assessment Year 2016-17 has escaped within the meaning of section 147 of the Income-tax Act, 1961. The details of the information/enquiry conducted on which reliance is being placed, along with supporting documents, are enclosed with this notice.

2. You are required to show-cause as to why, in view of the details contained in enclosures mentioned in point number 1 above, a notice section 148 of the Income Tax Act, 1961 should not be issued.

3. You may submit your reply to this notice, along with supporting documents (if any) on the above mentioned issues on or before 24/03/2023 electronically at www.incometax.gov.in."

6. The Annexure to the said Notice reads as under:-

"As per information available with the department and enquiry conducted, the following Financial Transaction have been made by the assessee during the FY 2015-16 relevant to AY 2016-17.

Information Description	***Information Source***	***Information Value (Rs.)***
Deposited cash of Rs.10,00,000/- of	The Villupuram Co-operative Urban Bank Limited	65,02,546

Information Description	***Information Source***	***Information Value (Rs.)***
more in a saving bank account		

Despite entering into above financial transactions and having income chargeable to tax, the assessee had not file the Return of Income for the AY 2016-17."

7. Pursuant to the aforesaid Notice issued under Section 148A(b) of the Income Tax Act, as amended with effect from 01.04.2021, the petitioner has also replied on 16th of March 2023, wherein, the petitioner has stated that the total deposit in cash that was made by the petitioner was only for INR 21,65,000 as against INR 65,02,546 between 01-04-2015 and 31-03-2016.

8. It is therefore submitted that there is no material available with the respondent to pass the impugned order so as to issue a Notice under Section 148A of the Income Tax Act.

9. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondent.

10. There is no case made out for interfering with the impugned order. The entries in the bank account that has been filed along with the reply on 16.03.2023 indicates that the petitioner has not only received Rs.31,80,200/- in cheque but also additionally a sum of Rs.21,65,000/- in the account.

11. Thus, the proceedings that has been initiated so far, which has been culminated in the impugned Assessment Order and Notice under Section 148 of the Income Tax Act cannot be interfered with.

12. This Writ Petition is therefore liable to be dismissed. It is accordingly dismissed with the above observations. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

18.07.2023

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

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To

The Income Tax Officer,
Ward 1, No.1, Chairman Subbarayar Street,
West Shanmugapuram,
Villupuram - 605 602.

C.SARAVANAN, J.

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