BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) Nos.8435 to 8446 of 2023
and 9539 to 9559 of 2022
and
W.M.P.(MD) Nos.7757, 7758, 7760, 7761, 7762, 7763, 7765,
7766, 7767, 7768, 7769, 7770, 7771, 7772, 7773, 7774, 7776,
7778, 7779 7780, 7781, 7782, 7786 and 7787 of 2023
and 6826 to 6867 of 2022

W.P.(MD) No.8435 of 2023:

Dhanalakshmi .. Petitioner

Vs.

The Assistant Commissioner of Income Tax,
Central Circle-1, Madurai,
Income Tax Staff Quarters Complex,
Kulamangalam Road,
Meenambalpuram, Madurai-02. .. Respondent

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari calling for the records of the respondent pertaining to the impugned order dated 29.09.2022 bearing DIN ITBA/PNL/F/271(1)(c)/2022-23/1046092965(1) for the assessment year 2016-17 issued by the respondent under Section 271(1)(c) of the

Income Tax Act and the consequential impugned demand notice issued under Section 156 of the Income Tax Act dated 29.09.2022 bearing DIN ITBA/PNL/S/156/2022-23/1046092868(1) and quash the same.

In all W.Ps.

For Petitioner : Mr.Richardson Wilson

For Respondent : Mr.N.Dilipkumar
Senior Standing Counsel

COMMON ORDER

The following tabular column would show the various writ petitions challenging the impugned order:

Sl. No.	Writ Petition (MD) No.	Name of the Petitioner	Date of the impugned order	Assessment Year
1	8435/2023	Dhanalakshmi	29.09.2022	2016-17
2	8436/2023	Dhanalakshmi	29.09.2022	2021-22
3	8437/2023	Dhanalakshmi	29.09.2022	2017-18
4	8438/2023	Dhanalakshmi	29.09.2022	2020-21
5	8439/2023	Dhanalakshmi	29.09.2022	2019-20
6	8440/2023	Dhanalakshmi	29.09.2022	2019-20
7	8441/2023	Dhanalakshmi	29.09.2022	2015-16
8	8442/2023	Dhanalakshmi	29.09.2022	2017-18
9	8443/2023	Dhanalakshmi	29.09.2022	2020-21
10	8444/2023	Dhanalakshmi	29.09.2022	2021-22

Sl. No.	Writ Petition (MD) No.	Name of the Petitioner	Date of the impugned order	Assessment Year
11	8445/2023	Dhanalakshmi	29.09.2022	2018-19
12	8446/2023	Dhanalakshmi	29.09.2022	2019-20
13	9539/2022	Dhanalakshmi	31.03.2022	2020-21
14	9540/2022	Shagitha	31.03.2022	2021-22
15	9541/2022	Dhanalakshmi	31.03.2022	2019-20
16	9542/2022	Dhanalakshmi	31.03.2022	2017-18
17	9543/2022	Dhanalakshmi	31.03.2022	2018-19
18	9544/2022	Dhanalakshmi	31.03.2022	2021-22
19	9545/2022	Dhanalakshmi	31.03.2022	2019-20
20	9546/2022	Dhanalakshmi	31.03.2022	2017-18
21	9547/2022	Dhanalakshmi	31.03.2022	2015-16
22	9548/2022	Dhanalakshmi	31.03.2022	2016-17
23	9549/2022	Dhanalakshmi	31.03.2022	2020-21
24	9550/2022	Dhanalakshmi	31.03.2022	2016-17
25	9551/2022	Dhanalakshmi	31.03.2022	2018-19
26	9552/2022	Dhanalakshmi	31.03.2022	2021-22
27	9553/2022	Shagitha	31.03.2022	2015-16
28	9554/2022	Shagitha	31.03.2022	2020-21
29	9555/2022	Shagitha	31.03.2022	2017-18
30	9556/2022	Shagitha	31.03.2022	2016-17
31	9557/2022	Shagitha	31.03.2022	2018-19
32	9558/2022	Dhanalakshmi	31.03.2022	2015-16
33	9559/2022	Shagitha	31.03.2022	2019-20

2. The common grievance of the petitioners in all the above writ petitions is the fact that they have not been given an opportunity to appear before the respondent to submit their case and also on account of the fact that the time given for responding/filing their objection was very short. The petitioners would contend that they have enough and more evidence to show that the amounts that have been seized during the search are all accounted for.

3. Per contra, Mr.N.Dilipkumar, learned Senior Standing Counsel, appearing for the respondent would submit that the petitioners had not submitted the entire documentary evidences and had only submitted brief details of their land holding, nature of crops, expenditure etc. Despite the request of the respondent-Department, calling upon the petitioners to produce documents and clarify the same, the petitioners had not come forward to submit themselves for an enquiry and therefore, the petitioners cannot now plead that they were not given an adequate opportunity.

4. Learned Senior Standing Counsel would further submit that even at the time of seizure, if these documents were available with the petitioners, they ought to have produced proof of the same. However, the petitioners have not come forward to produce the proof and further, even the present writ petitions are filed much after the passing of the impugned orders and therefore, he would seek to have the same dismissed.

5. Heard the learned counsel on either side.

6. The petitioners have produced a convenience chart giving details of the writ petitions, the dates on which the notices have been received and the dates when the impugned orders had come to be passed and also given the time that has been provided to them for submitting their reply. Perusal of the same would clearly show that very short period of time has been given for submitting the objections.

7. This Court in W.P.(MD) No.9900 of 2021, dated 15.06.2022 was

dealing with the similar matter where the challenge to the impugned order was violation of principles of natural justice and lack of affording personal hearing by the authority and finalisation of the assessment. This Court, after considering various judicial pronouncements in this regard, held that the impugned assessment orders were liable to be set aside on the ground of lack of personal hearing and short time for filing the objections. In yet another judgment of this Court in W.P.Nos.9144, 9150, 9155 and 9159 of 2022, dated 21.04.2022, a similar observation was made and the writ petitions were disposed of.

8. In the light of the above and taking into account the fact of these cases which ultimately show that the petitioners were not given adequate time to submit their objections/documents and that they have not been afforded personal hearing, these writ petitions are allowed, the impugned orders are quashed and the matter is remitted to the respondent for fresh consideration. The respondent shall afford an opportunity of personal hearing to the petitioner, take into account the documents produced by them and thereafter, pass orders within a period of three months from the

date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

12.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes

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To

The Assistant Commissioner of Income Tax,
Central Circle-1, Madurai,
Income Tax Staff Quarters Complex,
Kulamangalam Road,
Meenambalpuram, Madurai-02.

P.T.ASHA, J.

abr

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