BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.05.2023

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No. 11187 of 2023
and
W.M.P(MD)No.9788 of 2023

R.Rajasekaran ... Petitioner

Vs.

1.The Additional Commissioner of Income tax,
Income Tax Department,
National E. Assesment Center,
Delhi.

2.The Joint Commissioner of Income tax,
Range -2 Income Tax Department,
Trichy,
Tamil Nadu.

3. The Assessment Officer,
Ward – I,
Income Tax Department,
Annavasal Road,
Thirukokaranam,
Pudukkottai,
Tamil Nadu – 622 002. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of ***Writ of Certiorarified Mandamus,*** to call for the records on the file of 1st respondent vide PAN No.AGQPR6044K-ITBA/AST/S/147/2023-24/1052108142(1), dated 17.04.2023 and quash the same as illegal as devoid of merits and direct the 1st respondent to redo the assessment for the year 2015-2016 after providing reasonable opportunities to the petitioner by following the due process of law.

For Petitioner : M/s.Raja Karthikeyan

For Respondents : Mr.N.Dilip Kumar,
Standing Counsel

ORDER

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2. This writ petition is filed challenging the impugned Assesment order, dated 17.04.2023 for the assessment year 2015-2016.

3. The respondents have reopened the assessment under Section 147 of Income Tax Act. The allegation against the petitioner is that the petitioner has not disclosed the value of the property.

4. The contention of the petitioner is that the property is situated in Canal Street and not in Gandhi Nagar area. If the property is situated in Gandhi Nagar area the guideline is valued as Rs.14,000/- per square feet. If the property is situated in Canal Street, the guideline is valued as Rs.8,000/-per square feet. The petitioner is claiming only to grant personal hearing since it is a faceless assessment. The respondents did not grant any opportunity to the petitioner. Before this Court, the petitioner has produced a guideline value, which clearly states that Gandhi Nagar 1st Canal Cross Street, the guideline value is valued as Rs.8,000/-per square feet.

5. The petitioner has every right to substantiate his case and if personal hearing is granted this could be substantiated. Therefore, this Court is of the considered opinion that an opportunity ought to be granted to the petitioner.

6. The Learned Standing Counsel appearing for the respondents vehemently objected to this. Since it is a faceless assessment, the petitioner cannot seek personal hearing. Moreover, the petitioner has every right to submit all objections through written submission. The petitioner has not produced any document to this effect while filing his objections. Therefore, the Assessment order was passed based on the available records. Moreover, as per Section ***144B(1) of the***

Income Tax Act, the petitioner has every right for personal hearing by clicking the link. The petitioner has not availed the said opportunity. In the written submission, the petitioner has not sought for any personal hearing. But the fact remains that the respondents have taken a wrong valuation for the property. In the assessment order there is no discussion of the two guideline values (one for Canal Street and another for Gandhi Nagar), but the assessment has taken only the guideline value of the Gandhi Nagar alone. Therefore, this Court is of the considered opinion that the petitioner should be granted one more opportunity.

7. Accordingly, this Writ Petition is allowed. The impugned Assessment order, dated 17.04.2023 is hereby quashed. The respondents are directed to grant personal hearing, by providing link to the petitioner and fixing the date and time. The petitioner is at liberty to produce records, especially, the guideline value provided by the concerned authorities. Thereafter, the respondents are directed to pass Assessment order on merits, by taking appropriate facts. No Costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No **11.05.2023**
Internet : Yes **[2/2]**
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S.SRIMATHY, J

ksa

Order made in
W.P.(MD)No.11187 of 2023
[2/2]

11.05.2023