BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.07.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.15903 of 2023
and
W.M.P.(MD).No.13322 of 2023

Girdhari Lal ... Petitioner

Vs.

The Income Tax Officer,
Office of the Income Tax Officer,
Ward 1 (1) Trichy,
Trichy. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records passed by the respondent in DIN and Order No.ITBA/AST/S/147/2022-23/1051691189(1) dated 30.03.2023 and quash the same as arbitrary, unreasonable and against the principles of natural justice and further direct the respondent to consider representation dated 30.03.2023 by affording an opportunity of personal hearing.

For Petitioner : Mr.S.Karunakar

For Respondent : Mr.N.Dilip Kumar

ORDER

This Writ Petition is filed challenging the assessment order dated 30.03.2023 and further direct the respondent to consider representation dated 30.03.2023 by affording an opportunity of personal hearing.

2. The contention of the petitioner is that the respondents did not grant proper opportunity to the petitioner, hence there is a clear violation of principles of natural justice. The petitioner is relying on series of communication between the petitioner and the respondent. The respondent has issued a final show cause notice dated 29.03.2023 fixing the date of hearing on 30.03.2023 by 12.30 p.m., for which the petitioner has submitted a reply on 29.03.2023 itself. In the reply, it is stated that for the jewel loan of Rs.7,00,000/-, he has submitted the appraisal memo and other connected details, the amount was credited on 03.03.2015 and has enclosed the account ledger of Bank of Baroda. The respondent has accepted this communication, considered and the addition to the jewel loan was deleted. Subsequently, again the respondent has issued one more notice dated 30.03.2023 and the petitioner requested personal hearing and the same was fixed at 4.00 pm. In the meanwhile, the petitioner has again submitted a reply dated 30.03.2023 which is uploaded at 12.28 pm. For the addition towards personal loan, the petitioner

has submitted a confirmation letter from one P.Ramkumar. However, the petitioner is not able to get a confirmation letter from one Prem & Prem, since the said Prem & Prem owner demised at the time of securing the confirmation letter. The said communication dated 30.03.2023 at 12.28 p.m. was not considered by the respondent in the assessment order. Even though the assessment is fixed at 4.00 p.m., the petitioner has already circulated the documents at 12.28 p.m. itself.

3. Therefore, this Court is of the considered opinion that the respondent has not considered the reply submitted at 12.28 pm, thereby violating the principles of natural justice. Hence, the assessment order is remitted back only to that extent to consider the addition towards personal loan. The petitioner is at liberty to submit further documents regarding Prem & Prem by circulating the bills or other documents which is available with him. The said exercise shall be completed within a period of four (4) weeks from the date of receipt of a copy of this order. The petitioner shall appear before the authority on 14.09.2023. The petitioner shall submit the details on 07.09.2023. The respondent shall complete the assessment proceedings at the earliest.

4. In view of the above, this Writ Petition is partly allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

18.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr
Note: Issue Order Copy on 05.09.2023.

To

The Income Tax Officer,
Office of the Income Tax Officer,
Ward 1 (1) Trichy,
Trichy.

S.SRIMATHY, J.

Nsr

W.P.(MD).No.15903 of 2023

18.07.2023