IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2024

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.6062 of 2022
and
W.M.P.Nos.6145, 6147, 6149 and 6150 of 2022

Mr.Moorthy ... Petitioner

Vs.

1. The Deputy Commissioner of Income Tax,
   National E-Assessment Centre, Delhi,
   E-Ramp, Jawaharlal Nehru Stadium,
   Delhi – 110 003.

2. The Income Tax Officer,
   Non Corporate Ward 19(6),
   Income Tax Department,
   No.121, Mahatma Gandhi Road,
   Nungambakkam,
   Chennai – 600 034.

3. The Principal Commissioner of Income Tax – 3 Chennai,
   Income Tax Department,
   No.121, Mahatma Gandhi Road,
   Chennai – 600 034. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of 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 18.02.2022 passed u/s 147 r.w.s 144B of the Act for the Assessment Year 2017-18 in ITBA/AST/S/147/2021-22/1039910227(1) and consequently direct the First Respondent to complete the fresh assessment for the assessment year 2017-18 after granting reasonable/ sufficient opportunity of hearing.

For Petitioner : Mr.S.Sridhar

For Respondent :Mrs.S.Premalatha
Junior Standing Counsel

ORDER

The Petitioner is before this Court against the Impugned Assessment Order dated 18.02.2022 passed under Section 147 read with Section 144B of the Income Tax Act, 1961 for the Assessment Year 2017-2018.

2. By the Impugned Assessment Order, the assessment has been completed and the Petitioner has been assessed to a total income of Rs.10,57,750/-.

3. The specific case of the Petitioner is that although the Petitioner had replied to the Show Cause Notice that preceded the Impugned Order, the Petitioner was issued with a Notice under Section 142(1) of the Income Tax Act, 1961 on 27.01.2022. Wherein, certain particulars were called for to the Petitioner. The Petitioner had also attempted to upload the same on

03.02.2022. However, the Impugned Order has been passed on 18.02.2022.

4. The learned Junior Standing Counsel for the Respondents on the other hand would submit that adequate opportunity was given to the Petitioner and the Petitioner was required to upload the information and come for a personal hearing on 01.02.2022. However, the Petitioner failed to participate in the proceedings. Hence, it is submitted that the Impugned Order has been correctly passed and does not call for any interference.

5. The learned Junior Standing Counsel for the Respondents would also submit that Petitioner has an alternate remedy under Section 246A of the Income Tax Act, 1961, before the CIT Appeals and hence prays for dismissal of the Writ Petition.

6. Having perused the documents filed by the Petitioner in support of the Writ Petition and having perused the counter affidavit filed by the learned Junior Standing Counsel for the Respondents, Court is inclined to come to the rescue of the Petitioner by quashing the Impugned Order and remitting the case back to the Respondents to pass fresh order on merits and in accordance

with law as expeditiously as possible preferably within a period of six (6) months from the date of receipt of a copy of this order.

7. Meanwhile, the Petitioner is directed to upload all the informations that were required pursuant to Notice issued under Section 142(1) of the Income Tax Act, 1961 dated 27.01.2022, if it has not been uploaded till date. The petitioner shall cooperate with the respondent by furnishing all the informations called for along with the reply failing which the Respondents are at liberty to pass Orders based on the available records. Needless to state that Petitioner shall also be called upon for personal hearing, if the Petitioner so desires.

8. Writ Petition stands disposed of with the above observations and directions. No costs. Consequently, connected Miscellaneous Petitions are closed.

23.08.2024

Index : Yes/No
Speaking/Non-speaking Order
Neutral Citation :Yes/No
rgm

To

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C.SARAVANAN, J.

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