IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2024

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.7247 & 21692 of 2024 &

W.M.P.Nos.8089, 8090, 8092,

23671, 23673 & 23675 of 2024

Kannigaipeir Dakshinaurthy Suresh Babu ... Petitioner in both WPs.

Vs.

Assessment Unit,
Income Tax Department,
Ministry of Finance,
Government of India. ... Respondent in both W.Ps.

PRAYER in W.P.No.7247 of 2024: This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari calling for the records contained in order dated 05.12.2023 bearing ITBA/AST/S/147/2023-24/1058485339(1) issued by the Respondent to the Petitioner for AY 2015-16 for PAN AWTPS1766N under Section 147 read with Sections 144 and 144B of the Income Tax Act 1961 and to quash the same as arbitrary, illegal and unjust.

PRAYER in W.P.No.21692 of 2024: This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, calling for the records of Respondent contained in order dated 26.06.2024 passed by the Respondent under Section 271(1)(c) of the Income Tax Act 1961 bearing ITBA/PNL/F /271(1)(c)/2024-25/1066039195(1) for PAN. AWTPS1766N for AY 2015-16 and to quash the same as illegal arbitrary and unlawful.

For Petitioner in both W.Ps.	:	Ms.Shruрithi Parthasarathy
For Respondent in both W.Ps.	:	Mr.D.Prabhu Mukunth Arunkumar Junior Standing Counsel

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COMMON ORDER

These Writ Petitions have been filed challenging the impugned Orders passed by the respondent against the petitioner dated 05.12.2023 and 26.06.2024 respectively.

2. In W.P.No.7247 of 2024, it is the contention of the learned counsel for the petitioner that as the petitioner is an agriculturist and does not usually earn taxable income, the petitioner has not filed any income tax return for the financial year 2015-16. Therefore, the respondent had issued a notice under section 148 of IT Act for FY 2015-16. Immediately, the petitioner has paid the tax and also filed Income Tax return on 09.04.2022 However, due to technical difficulties, the petitioner was not able to e-verify the return filed by

him. Thereafter, the notices have been issued to the petitioner. As petitioner was unable to reply to the notices, the respondent passed the impugned Order.

3. The Writ Petition in W.P.No.21692 of 2024 has been filed challenging the penalty proceedings initiated against the petitioner for the very same financial year 2015-16.

4. The learned counsel for the petitioner would submit that the petitioner has not submitted his reply for the notices sent by the respondent. Without affording an opportunity of personal hearing, the present impugned Orders have been passed which are in violation of natural justice. Hence, submitted that the impugned Orders may be set aside.

5. Per contra, the learned Junior Standing Counsel appearing for the respondent would submit that due to the fault on the part of of the petitioner in e-verification, the respondent has passed the assessment Order. The fact remains the entire tax amount of Rs.1,10,960/- has been paid. Hence, submitted that appropriate orders may be passed and same will be complied by the respondent.

6. I have given careful consideration to the submissions made by

the learned counsel for the petitioner as well as the learned Junior Standing Counsel for the respondent.

7. In the present case, admittedly, the issue pertains to the FY 2015-16. Since the petitioner failed to file the ITR , proceedings under section 147 of IT Act has been initiated and notice has been issued to the petitioner on 02.04.2022. Consequent to the 148 proceedings, the petitioner filed his return. However, the petitioner has not sent any reply to the notice, as he was under the impression that since the tax has already been paid, nothing is required to be followed. It is the further case of the petitioner that after paying the tax, the petitioner failed to e-verify the same. Considering the fact that the petitioner has filed the return immediately after the receipt of 148 notice and tax amount has also been paid and due to technical difficulties, the petitioner was not able to e-verify the return of income, the impugned Order is liable to be set aside.

8. Accordingly, the impugned Orders passed by the respondent dated 15.12.2023 and 26.06.2024 are set aside and remanded back to the respondent for fresh consideration. While setting aside the impugned Order, this Court passes the following Order :

[i] The respondent is directed to allow the petitioner to e-

verify his returns within a period of 30 days from the date of receipt of a copy of this Order.

[ii] Thereafter within 30 days the petitioner is directed e-verify his returns as well as file his reply along with the required documents, if any.

[iii] On filing of such reply by the petitioner, the respondent shall consider the same and issue a 14 days clear notice by fixing the date of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

9. With the above directions, these Writ Petitions are disposed of. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

04.09.2024

vrc

To

Assessment Unit,
Income Tax Department,
Ministry of Finance,
Government of India.

KRISHNAN RAMASAMY, J.

vrc

W.P.Nos.7247 & 21692 of 2024 and
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