IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2024

CORAM

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

W.P.Nos.9640 & 26162 of 2022
and
W.M.P.Nos.25254, 25255, 9385 & 9387 of 2022

Rangaraju Rani ...Petitioner in both WPs.

Vs.

1.The Income-Tax Officer
Non-Corp Ward 10 (3) CHE
Room No.617, Sixth Floor, Chennai Wanapathy Block,
Block No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai – 600 034.

2.The Income Tax Officer,
Office of the Principal Chief Commissioner of Income Tax,
(NAFAC)
National Faceless Assessment Centre,
Delhi – 110 003. ...Respondent in both WPs.

Prayer in WP.No.9640 of 2022: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified Mandamus calling for the records comprised in the impugned order in bearing DIN ITBA/AST/S/147/2021-22/1042112040(1) for AY 2014-15 dated 30.03.2022 issued under Section 147 of the Income Tax Act, 1961 on the file of the second respondent, quash the same and consequently direct the second respondent to furnish the document evidence to substantiate the amount added to the total income in a fair and proper manner by affording an opportunity of personal hearing to the petitioner before passing final order.

Prayer in WP.No.26162 of 2022: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records comprised in the impugned order in bearing DIN ITBA/REC/S/154-1/2022-23/1045336682(1) dated 08.09.2022 issued under Section 154 of the Income Tax Act, 1961 on the file of the first respondent, quash the same.

For Petitioner	:	Mr.K.Magesh
For Respondents	:	Mr.V.Mahalingam Sr.Standing Counsel

COMMON ORDER

Heard Mr.K.Magesh, learned counsel for the petitioner and Mr.V.Mahalingam, learned Sr.Standing Counsel for the respondents.

2. By this Common order, both these writ petitions are being disposed of.

3. The petitioner has challenged the impugned order passed by the Assessing Officer under **Section 147** r.w.s **Section 144** of the Income Tax Act, 1961 (in short 'Act') for the assessment year 2014-15.

4. By the impugned order, the petitioner was assessed to a total income of

Rs.3,30,38,360/-. The order was challenged by the petitioner in WP.No.9640 of 2022. The petitioner had secured an interim order from this Court on **19.04.2022**.

5. The impugned order dated **23.12.2021** indicates that it refers to deposit of Rs.26,01,000/- from the savings account maintained by the petitioner jointly along with her deceased husband.

6. That apart, a sum of **Rs.3,26,18,900/-** was added to the taxable income of the petitioner over and above an income of **Rs.4,19,460/-** was added based on the information gathered in the Non Filers Monitoring System (NMS).

7. During the pendency of WP.No.9640 of 2022, the department *suo-motu* revised the aforesaid order dated **30.03.2022** under **Section 154** r.w.s **Section 147** of the Act, by deleting the unexplained income of **Rs.3,26,18,900/-** and has added a sum of Rs.26,01,000/- under **Section 69 A** of the Act as explained income.

8. The rectification order dated **08.09.2022** has been passed during the pendency of W.P.No.9640 of 2022 which is challenge in W.P.No.26162 of

2022. *Prima-facie*, there are indicators that the aforesaid amount was transferred from pre-closure of a Fixed Deposit made in the name of the petitioner's husband namely late Shri Mr.K.Rangaraju, who had saved the amount from his retiral benefits, which is evident from the Bank Statement filed before this Court on **26.10.2021** for the period between **1st of April 2013** to **31st August 2013**.

9. Considering the same, the WP.No.9640 of 2022 is closed, as the order passed on **30.03.2023** stands rectified by the order dated **08.09.2022**.

10. As far as, the impugned rectification order dated 08.09.2022 impugned in WP.No.26162 of 2022 is concerned, the said rectification order dated **08.09.2022** has been passed without giving an adequate opportunity to the petitioner. *Prima-facie* facts indicate that the details of income gathered from the Bank account of the petitioner is not a new information from the account of the petitioner.

11. Therefore, Court is inclined to set aside the impugned order dated 08.09.2022 and remits the case back to the 1st respondent and pass fresh order insofar as addition of Rs.26,01,000/- to the total income of the petitioner. It is made clear that before passing of the final order, the petitioner shall be heard if

the petitioner desires.

12.The dispute pertains to the Assessment Year 2014-15, it is expected that the respondent will pass fresh order as expeditiously as possible preferably within a period of six (6) months from the date of receipt of copy of this order. This writ petition stands allowed. No costs. Connected Miscellaneous Petitions are closed.

19.10.2024

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case: Yes/No
nst

To:

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C.SARAVANAN, J.

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