



WEB COPY



W.P.No.8865 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.8865 of 2024
and
W.M.P.No.9867 of 2024

Rakesh Beniyal

Versus

... Petitioner

1.The Income Tax Officer (Assessment)

Ward/Circle-I(I),
Ministry of Finance,
Nallappa Street, Periyar Nagar,
Erode – 638 001.

2.The Superintendent of Police,

District Police Office,
(Economic Offence Wing)
Erode District.

3.The Branch Manager,

AXIS Bank,
Mettu Nasuvanpalayam Branch,
Bhavani,
Erode District.

4.The Sub-Inspector of Police,

Chitode Police Station,
Erode District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of



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India, pleased to issue a Writ of Certiorari, to call for the records relating to the orders of the first respondent dated 16.02.2024 in DIN-ITBA/AST/F/17/2023-24/1061054700(1) and consequential order passed in DIN-ITBA/AST/S/156/2023-24/1062116100(1) dated 06.03.2024 under Section 147 r/w Section 144 r/w Section 144B of the Income Tax Act, 1961, to quash the same.

For Petitioner : Ms. M. E. Rani Selvam
For R1 : Dr. B. Ramaswamy,
Senior Standing Counsel
For R2 & R4 : M. T.N.C. Kaushik,
Additional Government Pleader (Tax)

ORDER

An assessment order dated 06.03.2024 is challenged in this writ petition.

2. The petitioner asserts that a business account (current account) was opened in the petitioner's name in the third respondent bank without the knowledge of the petitioner. According to the petitioner, the alleged escaped income of Rs.1,09,25,580/- was remitted into the said account and that the petitioner has no connection to such remittance. After lodging a



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complaint before the Superintendent of Police, Erode District, and obtaining CSR.No.419 of 2023, the present writ petition was filed.

3. Learned counsel for the petitioner submits that the petitioner was employed as a clerk in a spinning mill and was drawing a meagre salary of Rs.6,000/- per month. She further submits that the transactions that resulted in the re-assessment proceedings were on account of the involvement of one Mr. Prakash Muthuswamy, who was employed as Operation head/branch Manager in the Axis Bank. Learned counsel further submits that the petitioner be granted interim protection until a statutory appeal is filed.

4. Dr.B.Ramaswamy, learned senior standing counsel, accepts notice on behalf of the first respondent and Mr. T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the second and fourth respondents.

5. By referring to the show cause notice dated 08.12.2023, Dr. B. Ramaswamy, learned senior standing counsel, submits that credits to the



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extent of Rs.1,09,25,580/- and debits to the extent of Rs.51,50,000/- were made in the bank account of the petitioner during the relevant financial year. He further submits that the impugned assessment order was issued after following the procedure in respect of re-assessment by issuing notice under Section 148A(b) order under Section 148A(d) and notice under Section 148 of the Income Tax Act, 1961. Therefore, he submits that no interference is warranted with the impugned assessment order.

6. From the averments in the affidavit in support of the writ petition, it is evident that the petitioner had filed W.P.No.3848 of 2023 earlier. The said writ petition was dismissed. After the assessment order was issued, the present writ petition has been filed. The petitioner contends that a bank account was opened in his name without his knowledge and that transactions in such account resulted in the assessment order. These are disputed questions of fact which cannot be conveniently addressed in proceedings under Article 226 of the Constitution of India. As against the assessment order, a statutory appeal is available to the petitioner. Consequently, no case is made out for interference under Article 226.



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7. For reasons set out above, W.P.No.8865 of 2024 is dismissed by leaving it open to the petitioner to avail of the statutory remedy. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is also closed.

02.04.2024

Index : No

Speaking Order : Yes

Neutral Case Citation: No

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To

- 1.The Income Tax Officer (Assessment) Ward/Circle-I(I),
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