IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **23.02.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.11696 of 2022
&
WMP No.11157 of 2022

S.Jeyammala,
W/o.Late V.S.Senthilrajan ... Petitioner

vs

1. The Principal Commissioner of Income Tax-3,
   Income Tax Department,
   121, Nungambakkam High Road,
   Chennai-60 034.

2. The Assistant Commissioner of Income Tax
   National Faceless Assessment Centre, Delhi
   E-Ramp, Jawaharlal Nehru Stadium,
   Delhi-110 003.

3. The Income Tax Officer,
   Non Corporate Ward-10(6),
   Income Tax Department
   121, Nungambakkam High Road,
   Chennai-600 034. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the records of the Writ Petitioner on the file of the 2nd Respondent to quash the impugned order dated 30.03.2022 passed u/s.147 r.w.s.144

r.w.s.144 B of the Act for the Assessment Year 2017-2018 in DIN ITBA/AST/S/147/2021-22/1042333407(1) and consequently direct the 2nd Respondent to complete the fresh assessment for the assessment year 2017-18 after granting reasonable/sufficient opportunity of hearing.

For Petitioner : Mr.S.Saravanakumaran
for Mr.M.Velmurugan

For Respondents : Mr.R.S.Balaji,
Senior Standing Counsel
Mrs.S.Premalatha,
Junior Standing Counsel

ORDER

An assessment order dated 30.03.2022 on best judgment basis is assailed by the petitioner. The petitioner states that she had filed her original return of income for Assessment Year 2017-2018 on 31.07.2017 declaring the income of Rs.4,65,920/-.

2. The case was selected for scrutiny assessment. As against the assessment order dated 04.07.2019, the petitioner filed an appeal. Thereafter, by opting for Vivad se Vishwas Scheme 2020, a full and final settlement was made. In those circumstances, the petitioner asserts that she was shocked to receive a notice under Section 148 dated 25.03.2021. In spite of requesting for the reasons for reopening

the assessment, it is stated that such reasons were not provided and that, eventually, the impugned order was issued.

3. Learned counsel for the petitioner invited my attention to the e-mail sent on 21.04.2021 from the e-mail ID of the petitioner's husband for and on behalf of the petitioner requesting for the reasons for reopening the assessment on the ground of alleged escaped income. By referring to the impugned order at paragraph 3 thereof, learned counsel pointed out that the assessing officer referred to the assessee's registered e-mail ID and that such e-mail ID is the same as the e-mail ID from which the request for reasons was provided. Since the assessment was reopened without adhering to principles laid down in *GKN Driveshafts v. ITO, 2003 (1) SCC 72*, learned counsel submits that the impugned proceedings are liable to be quashed. Without prejudice, from the reasons disclosed in the assessment order, learned counsel submits that the relevant bank accounts were disclosed during the original assessment period and that the deposits were made through RTGS and not by cash.

4. In response to these contentions, Mrs.Premalatha, learned standing counsel for the respondents, submits that the petitioner did not request for reasons through the ITBA portal. Therefore, the request for reasons did not come to the notice of the Assessing Officer. Hence, she submits that the Assessing Officer proceeded to issue the assessment order on best judgment basis.

5. Even prior to the amended regime being put it place with regard to re-assessment proceedings, by virtue of the order of the Hon'ble Supreme Court in *GKN Driveshafts,* the Income-tax Department was under an obligation to provide reasons if requested for by the assessee concerned after filing the return of income pursuant to receiving notice under Section 148. In the case at hand, admittedly, the petitioner filed the return of income and, thereafter, requested for reasons for reopening the assessment by e-mail of 21.04.2021. On examining the impugned assessment order, it is evident that the e-mail address from which the petitioner requested for reasons for reopening the assessment is the same as the registered e-mail ID of the assessee. In these circumstances, the failure to provide reasons for reopening the assessment is fatal.

6. Therefore, W.P.No.11696 of 2022 is allowed and the impugned assessment order is quashed by leaving it open to the respondents to initiate *de novo* proceedings in accordance with law. If such proceedings are initiated, it will be open to the petitioner to raise all contentions in respect thereof. Consequently, connected miscellaneous petition is closed. No costs.

23.02.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

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SENTHILKUMAR RAMAMOORTHY J.

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