IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2024

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.12855 of 2022
and
W.M.P.Nos.12333 and 12335 of 2022

Sirajuddin Mujibur Rahman ... Petitioner

Vs.

1.The Income Tax Officer,
National Faceless Assessment Centre,
Delhi.

2.The Income Tax Officer,
Non-Corporate Ward 10(3),
Room No.613, 6th Floor,
121, Mahatma Gandhi Road,
Nungambakkam,
Chennai – 600 034. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the first respondent in relating to the assessment order passed under Section 147 read with Section 144 read with Section 144B of the Income Tax Act, 1961 dated 25.03.2022 in DIN:ITBA/AST/S/147/2021-

22/1041582131(1) for the Assessment Year 2017-2018 and quash the same.

For Petitioner : Mr.T.Vasudevan

For Respondents : Mr.B.Ramana Kumar
Senior Standing Counsel

ORDER

The petitioner claims to be a non resident who failed to notice the notice issued under Section 148 of the Income Tax Act, 1961 and therefore he suffered the impugned Assessment Order dated 25.03.2022.

2. It is the case of the petitioner is that the petitioner had stopped using the old e-mail ID. Therefore, failed to notice that earlier impugned order came to be passed on 25.03.2022. It is submitted that only when the auditor was filing the returns and finalizing the returns for the subsequent Assessment Year, the auditor noticed in the portal that the petitioner had been served notice under Section 148 of the Income Tax Act, 1961, earlier which has culminated in the impugned order on 25.03.2022. It is submitted that the petitioner may be given one

opportunity to explain the case afresh and therefore prays for setting aside the impugned order.

3. The learned Senior Standing Counsel for the respondents on the other hand would submit that the petitioner has not filed the returns and therefore a notice was issued under Section 148 of the Income Tax Act, 1961, which was also not replied by the petitioner and thus the impugned Assessment Order has been passed. It is further submitted that there has been Tax Deducted at Source for a sum of Rs.49,00,000/- in Form 26AS and therefore there is no mistake in the impugned order warranting an interference under Article 226 of the Constitution of India. It is therefore submitted that the writ petition is liable to be dismissed.

4. The learned counsel for the petitioner however confirms that the petitioner has prepared a balance sheet admitting the income of Rs.16,22,372/- for the period between 01.04.2016 and 31.03.2017 for the Assessment Year 2017-2018. Thus, the petitioner is due for the tax amount, as no tax has been remitted by the petitioner on par with the Tax Deducted at Source for the amount reflected in Form 26AS.

5. Considering the overall facts and circumstances of the case, Court is inclined to come to the rescue of the petitioner, subject to the petitioner depositing appropriate tax that is payable on the admitted taxable income of Rs.16,22,372/-. Subject to petitioner depositing the tax within a period of 30 days from today, the impugned order will stands quashed, in which case, the respondents shall pass a fresh order on merits following the procedures prescribed under the provisional Income Tax Act. Since the dispute pertains to the Assessment Year 2016-2017, it is expected that the entire proceedings will be completed preferably within a period of 9 months from the date of receipt of a copy of this order. It is made clear that in case the petitioner fails to deposit the tax in time, the concession granted by this Court will stands automatically revoked.

6. This Writ Petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

15.11.2024

Index:Yes/No
Internet:Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
jas

To

1.The Income Tax Officer,
National Faceless Assessment Centre,
Delhi.

2.The Income Tax Officer,
Non-Corporate Ward 10(3),
Room No.613, 6th Floor,
121, Mahatma Gandhi Road,
Nungambakkam,
Chennai – 600 034.

C.SARAVANAN, J.

jas

W.P.No.12855 of 2022
and
W.M.P.Nos.12333 and 12335 of 2022

15.11.2024