IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **04.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.12151 of 2024 &
WMP Nos.13245 & 13246 of 2024

Praveen Sanjiv ... Petitioner

vs

1. Income Tax Officer,
Non-Corporate Ward 7(3),
Chennai—600 034.

2. Assessment Unit,
Income Tax Department,
Chennai-600 034. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari to call for the records on the file of the Respondents and to quash the impugned Assessment order passed by the 2nd respondent under section 147 rws 144 rws144B on 26.03.2024, for the AY:2015-16, in PAN No.:FZZPS0216R under DIN:ITBA/AT/S/147/2023-24/1063418075(1) dated 26.03.2024 confirming the notice under section 148 of the Act in DIN & Notice NO.:ITBA/AST/S/148-1/2022-23/1042433006(1) dated 01.04.2022.

For Petitioner : Mr.G.Ashokapathy
for Pass Associates

For Respondents: Mr.D.Prabhu Mukunth Arunkumar
Junior Standing Counsel

ORDER

An assessment order for assessment year 2015-16 is challenged in this writ petition on the ground of breach of principles of natural justice.

2. By issuing an order dated 01.04.2022 under Section 148A(b) of the Income-tax Act, 1961, the assessment of the petitioner was re-opened. A notice under Section 148 was issued contemporaneously. Such notice was replied to. Thereafter, a draft assessment order came to be issued along with the show cause notice dated 12.03.2024. The petitioner replied thereto on 14.03.2024 by attaching several documents. By notice dated 15.03.2024, the second respondent informed the petitioner that the documents attached with the petitioner's reply of 14.03.2024 were not in readable form. The impugned assessment order came to be issued in the above facts and

circumstances on 26.03.2024.

3. Learned counsel for the petitioner submitted that proceedings were initiated against the petitioner in respect of two alleged purchases of immovable property. In response, the petitioner admitted that there was one transaction and provided documents in relation thereto in response to the notices received over a period of time. With specific reference to the reply dated 14.03.2024 to the show cause notice cum draft assessment order, learned counsel pointed out that all relevant information, including information relating to the income-tax returns of the petitioner's parents, was attached thereto. He also pointed out that a grievance was raised by the petitioner that the petitioner was able to open and read the attached documents, which are in readable PDF. By referring to the impugned assessment order, learned counsel points out that the proposed variations were confirmed without examining the attachments to the petitioner's reply dated 14.03.2024. Hence, he submits that interference with the impugned order is called for.

4. Mr.Prabhu Mukunth Arunkumar, learned junior standing

counsel accepts notice for the respondents.

5. Learned counsel points out that the petitioner was provided multiple opportunities to provide an explanation with regard to the transaction forming the basis for the assessment proceedings and that the petitioner failed to provide the documents in readable form.

6. The petitioner has placed on record the reply dated 14.03.2024 to show cause notice cum draft assessment order dated 12.03.2024. The list of attachments thereto include the I.T. acknowledgment of the petitioner's mother and father, documents pertaining to sources of income and bank statements. The petitioner had previously enclosed all documents pertaining to the purchase of the relevant immovable property and the construction undertaken thereon. In the impugned order, in relevant part, it is recorded as under:

> *"The above show-case was delivered to the assess on-line to the mail: sanjivkatta02@gmail.com. On 14.03.2024, the assessee sent reply through e-proceedings (on-line), but the same were not*

extractable. Hence, a letter dt15.03.2024 was sent to the assessee to re-submit the documents in extractable mode. However, the assessee could not furnish the required documents as called for in the notice issued, in extractable mode.

Since the assessee was not able to send his reply through on-line in extractable mode of attachments, as has been done by him in the previous reply, the reply made in response to show cause notice was not taken into consideration, as not extractable."

7. In effect, on the basis that the petitioner's reply and documents attached thereto could not be extracted and examined, the order was issued. In the factual context of the petitioner having submitted a reply along with relevant documents, the non-consideration thereof violates principles of natural justice. Hence, the impugned assessment order is unsustainable.

8. Therefore, the impugned assessment order dated 26.03.2024 is set aside and the matter is remanded for reconsideration from the stage of reply to the show cause notice cum draft assessment order.

The respondents are directed to take necessary measures to enable the petitioner to upload the reply on the portal along with the relevant attachments. The petitioner is directed to upload the reply within two weeks from the date of receipt of a copy of this order. Upon receipt thereof, the second respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing through video conference, and thereafter issue a fresh order within three months from the date of receipt of the petitioner's reply.

9. W.P.No.12151 of 2024 is disposed of on the above terms without any order as to costs. Consequently, the connected miscellaneous petitions are closed.

04.06.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

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To

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SENTHILKUMAR RAMAMOORTHY J.

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