IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.13879 of 2023
& W.M.P.Nos.13537 & 13541 of 2023

M/s.Sri Rengasamy Sakthi,
1/17A, Mahalakshmi Nagar,
Kariyampalayam Mylampatti (PO),
Coimbatore 641 062.
BQAPS50034H

... Petitioner

Vs.

1.The Principal Commissioner of Income Tax-I,
Office of the Principal Commissioner of Income Tax,
No.63, Race Course Road,
Coimbatore 641 008.

2.The Income Tax Officer,
Non-Corporate Ward 4(1),
Coimbatore 641 008.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent in Ref.No.ITBA/REV/F/REV7/2020-21/1030437833(1) dated 08.02.2021 and quash the impugned order as illegal, without jurisdiction, not following the principles of natural justice, perverse, not passed the order as per the Government Guidelines and direct the 1st respondent to give one more opportunity to the petitioner and consider the records and law on hand.

For Petitioner : Dr.R.Meenakshi Sundaram

For Respondent : Dr.B.Ramaswamy,
Senior Standing counsel

ORDER

This writ petition has been filed challenging the impugned order dated 08.02.2021 passed by the 1st respondent.

2. The learned counsel for the petitioner would submit that initially, the petitioner had failed to file their returns due to the demise of his father, who was looking after the accounts and finance. Therefore, a show cause notice was issued by the respondents on 09.03.2018, calling for the return of income. Thereafter, the petitioner had filed his returns belatedly on 04.07.2018. However, the respondent had treated the said

return of income as invalid and passed the assessment order dated 29.11.2019. Subsequently, an appeal was preferred by the petitioner against the said assessment order and engaged a Consultant to represent his case before the respondent. However, the said consultant had neither replied to the show cause notice nor appeared for personal hearing before the respondent. Under these circumstances, the exparte impugned order came to be passed by the 1st respondent on 08.02.2021. Hence, he requests this Court to set aside the said impugned order.

3. Dr.B.Ramaswamy, learned Senior Standing counsel appearing for the respondents had strongly opposed for the request made by the petitioner and would submit that though sufficient opportunities were provided by the respondents, the petitioner had failed to utilise the same. However, in the event of setting aside the impugned order, he requested this Court to remit the matter back to the 1st respondent, subject to the payment of cost by the petitioner.

4. Heard the learned counsel for the petitioner and the learned Senior Standing counsel for the respondents and also perused the materials available on record.

5. In the case on hand, the petitioner had failed to file his returns within the prescribed time limit due to the demise of his father. Hence, a show cause notice was issued by the respondents on 09.03.2018 calling for the return of income. Thereafter, though the petitioner filed his returns on 04.07.2018, the respondents had treated the same as invalid and passed the assessment order on 29.11.2019.

6. Aggrieved over the said assessment order, an appeal was preferred by the petitioner vide his Consultant/Auditor. However, the said Consultant/Auditor had neither appeared before the respondents nor informed the petitioner about the proceedings, due to which, the petitioner was unable to utilise the opportunity provided by the respondents. Now, the petitioner has pleaded this Court to grant an

opportunity to establish their case before the 1st respondent by setting aside the impugned order.

7. Considering the submissions made and reasons assigned by the petitioner for non-filing of returns, this Court is inclined to set aside the impugned order on terms. Accordingly, this Court passes the following order:

(i) The impugned order dated 08.02.2021 is set aside and the matter is remanded back to the 1st respondent for re-consideration, subject to the payment of a sum of Rs.2,000/- to the Adyar Cancer Institute, Adyar, within a period of four weeks from the date of receipt of copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) Upon production of proof with regard to the payment of a sum of Rs.2,000/- as stated above, the 1st respondent is directed to consider and dispose of the appeal filed by the petitioner, on its own merits and in accordance with law, after providing an sufficient opportunity to the petitioner, as expeditiously as possible.

8. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

23.09.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa
To

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KRISHNAN RAMASAMY.J.,

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