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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.12031 of 2024
and W.M.P.Nos.13135 & 13137 of 2024

Muthu Pitchamuthu Prabu ... Petitioner

Versus

1.Assistant/Deputy Commissioner of
Income Tax (International Taxation),
Circle 1 (1)(1),
Income Tax Department,
Delhi – 110 002.

2.Income Tax Officer,
Non-Corp Ward 22(1),
Income Tax Department,
West Tambaram, Chennai – 45. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari calling for the records of the Respondents contained in its notice issued by the first respondent under Section 143(2) of the Income Tax Act, 1961, dated 31.05.2023, bearing DIN - ITBA/AST/S/143(2)/ 2023-24/1053364207(1), and all proceedings in furtherance thereof including but not limited to the assessment order passed by the second respondent under Section 143(3) of the Income Tax Act, 1961, dated 29.03.2024, bearing DIN and Order No.ITBA/ AST/ S/143(3) -2023-24/1063595264(1) and the notice issued by the second

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respondent under Section 156 of the Income Tax Act, 1961, dated 29.03.2024, bearing DIN and Notice No.ITBA/ AST/ S/156/2023-24/ 1063595280(1), for Assessment Year (AY) 2022-23, for PAN ATZPM1709Q, and to quash the same as arbitrary, unjust, and illegal.

For Petitioner	:	Mr.Suhrith Parthasarathy & Mr. Arun Karthik Mohan
For Respondents	:	Mr. D. Prabhu Mukunth Arun Kumar, Junior Standing Counsel

ORDER

This writ petition is directed at assessment order dated 29.03.2024 in respect of assessment year 2022-23.

2. Upon the petitioner filing the return of income for the above mentioned year on 30.07.2022, a notice dated 31.05.2023 was issued to the petitioner under Section 143(2) of the Income Tax Act , 1961 (the *I-T Act*). Such notice was responded to 05.06.2023. Subsequent notices were issued under Section 142(1) of the I-T Act and the petitioner replied thereto by annexing the bank statements in part. Being dissatisfied with these replies, show cause notice dated 26.03.2024 was issued calling upon the petitioner to show cause in respect of investments made by the petitioner in Zerodha from his ICICI Bank account. The petitioner issued an email dated 28.03.2024 by annexing several documents including complete bank

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statements, Form-16 and other documents. The impugned order was issued under these circumstances.

3. Learned counsel for the petitioner assails the impugned order on two grounds. The primary ground of challenge is that the documents enclosed with the petitioner's email dated 28.03.2024 were not taken into consideration. The second ground of challenge is that the petitioner's assessment was transferred in breach of Section 127 of the I-T Act. This contention is advanced on the ground that the transfer order was not duly authorized in accordance with the statutory prescription and that the petitioner did not consent thereto.

4. In response to these contentions, Mr. D. Prabhu Mukunth Arun Kumar, learned junior standing counsel, submits that the petitioner had filed the income tax returns specifying his address in Chennai, Tamil Nadu. On such basis, he submits that the assessment of the petitioner was transferred to the jurisdictional officer, namely, the second respondent. He also submits that the petitioner did not raise any objections to such transfer either when his response to the transfer proposal was called for or in any

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subsequent communication.

5. If the Court is inclined to remand the matter on the ground of breach of principles of natural justice, learned counsel for the petitioner submits that he would not press the arguments in relating to the transfer. The said statement is recorded.

6. The petitioner placed on record the email dated 28.03.2024 which is addressed to the assessing officer/second respondent. From the list of attachments thereto, it is clear that the petitioner attached the ICICI Bank statements and Citibank statements. On examining the impugned assessment order, there is no reference to the email or the attachments thereto. Since a sum of Rs.66,33,000/- has been added to the total taxable income of the petitioner respect of without taking into account documents submitted by the petitioner before the issuance of the assessment order, great prejudice has been caused to the petitioner. For such reasons, the impugned order is liable to be interfered with.

7. For reasons set out above, the impugned assessment order dated

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29.03.2024 is set aside and the matter is remanded for re-consideration. The respondents are directed to take necessary steps to enable the portal and provide access to the petitioner within a maximum period of two weeks from the date of receipt of a copy of this order. Within a period of two weeks therefrom, the petitioner is permitted to file a reply and attach all necessary documents. Upon receipt thereof, the respondents are directed to provide a reasonable opportunity, including a personal hearing, and thereafter issue a fresh order within three months from the date of receipt of additional documents from the petitioner.

8. The Writ Petition is disposed of on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

06.06.2024

Index :Yes/No
Speaking/Non-Speaking
Neutral Case Citation : Yes/No
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To

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