IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2024

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE C. SARAVANAN

W.A.No.1778 of 2021

L.Sekar .. Appellant

Vs.

1. The Principal Commissioner of Income Tax
Ministry of Finance, Income Tax Department
No.121, Mahatma Gandhi Road
Nungambakkam, Chennai 600 034.

2. The Assessment Officer / Income Tax Officer
Ward 2, Tiruvannamalai
Income Tax Department
Tiruvannamalai District. .. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order made in W.P.No.1232 of 2020 dated 23.04.2021.

For the Appellant : Mr.P.C.Hari Kumar

For the Respondents : Dr.B.Ramaswamy
Senior Standing Counsel

JUDGMENT
(Judgment of the Court was authored by R.SURESH KUMAR, J.)

This intra-Court appeal has been directed against the order passed by the Writ Court dated 23.04.2021 made in W.P.No.1232 of 2020.

2. The appellant assessee was the writ petitioner, against whom the order of assessment for the Assessment Year 2017-18 was issued vide order dated 08.12.2019, which was questioned by the appellant before the Writ Court for the reason that no opportunity had been given to the appellant assessee before framing of assessment. Therefore, the same amounts to violation of principles of natural justice and on that account, he has questioned the order of assessment.

3. The learned Writ Court, having noted of the said plea raised on behalf of the appellant, called for records and verified whether notice had been issued and any opportunity had been given to the appellant assessee. The Writ Court recorded that the assessee, in fact, has not filed the returns of income within time and therefore, notice under Section 142(1) of the Income Tax Act, 1961, dated 30.11.2017, was issued, pursuant to which also the appellant assessee did not file the returns of income. The notice dated 30.11.2017 called for the return of income to be filed on or before 30.12.2017. However, the return of income was filed by the appellant assessee belatedly on 13.08.2019.

4. Thereafter, summons under Section 131 also had been issued and this was disputed by the appellant assessee before the Writ Court. Therefore, the Writ Court was pleased to call for the records and verified whether such summons had been issued and it was found that summons had been issued and a copy of the summons, with acknowledgment, also had been produced by the Revenue, which has been taken note of by the learned Single Judge in the impugned order itself.

5. In that view of the matter, the Writ Court came to the conclusion that there is no violation of principles of natural justice and every opportunity has been given to the appellant assessee and recorded that no ground is made out to interfere with the impugned order in terms of Article 226 of the Constitution of India and accordingly, the writ petition was dismissed through the impugned order.

6. We do not find any error in the said approach of the learned Single Judge and therefore, this appeal deserves to be dismissed. Accordingly, the present writ appeal stands dismissed with liberty to the appellant assessee to file an appeal before the

Commissioner of Income Tax Appeals against the order of assessment in the manner known to law. There shall be no order as to costs. Consequently, C.M.P.No.11109 of 2021 is closed.

(R.S.K., J.) (C.S.N, J)
05.11.2024

Neutral Citation:Yes/No

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To:

1. The Principal Commissioner of Income Tax
   Ministry of Finance, Income Tax Department
   No.121, Mahatma Gandhi Road
   Nungambakkam, Chennai 600 034.

2. The Assessment Officer / Income Tax Officer
   Ward 2, Tiruvannamalai
   Income Tax Department
   Tiruvannamalai District.

R. SURESH KUMAR, J.
AND
C. SARAVANAN, J.

(drm)

W.A.No.1778 of 2021

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