IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **12.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.14497 of 2024 and
W.M.P.Nos.15772 & 15778 of 2024

ACRE FEET TRUST,
14C colony water tank south street,
Perumalpuram, Perumalpuram S.O.
Palayamkottai,
Tirunelveli 627 007
Represented by its Managing Trustee. ... Petitioner

-vs-

1. Commissioner of Income (Exemption)
Aayakar Bhawan-Annexure Building,
No.121, MG Road, Nungambakkam,
Chennai-600 034.

2.National Faceless Assessment Centre,
Room No.401, 2nd floor,
E-Ramp, Jawaharlal Nehru Stadium,
Delhi-110 003.
Represented by Assessment Unit,
Income Tax Department.

3.Income Tax Officer (Exemption)
O/o Income Tax Office,
Tirunelveli. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent herein leading to issuance of order dated 14.03.2024 (vide DIN ITBA/COM/F/17/2023-2024/1062622992(1) and quash the same and direct the 2nd respondent to pass assessment order afresh after affording opportunity to the petitioner.

For Petitioner : Mr.S.Sathyanarayanan

For Respondents : Mrs.S.Premalatha, Junior Standing Counsel

ORDER

An order dated 14.03.2024 rejecting the revision petition under Section 264 of the Income Tax Act, 1961 (the Income Tax Act) is challenged in this writ petition.

2. The petitioner had filed the return of income for assessment year 2020-2021 on 31.12.2020. In such return of income, the petitioner had claimed exemption. An audit report in Form 10B was also filed by the assessee within the due date. Upon the return being selected for scrutiny, assessment proceedings took place between June 2021 and August 2022. The assessee did not participate in such proceedings. In these circumstances, the assessment order dated 23.09.2022 was issued. The petitioner did not file

an appeal against such order. Instead the revision petition under Section 264 of the Income Tax Act was filed on 26.12.2022. By the impugned order, such petition was rejected.

3. Learned counsel for the petitioner submits that the assessee has the option of filing a revision petition provided no appeal was filed within the limitation period. He next submitted that the limitation period for filing the revision petition is one year. Therefore, he submits that the revision petition was filed well within the period of limitation. By referring to paragraph 7 of the impugned order, learned counsel contends that the revision petition was rejected on a hyper technical ground that the petitioner did not show sufficient cause for not participating in the assessment proceedings. He submits that such conclusion was recorded in spite of the fact that the assessment proceedings were conducted during the second wave of the COVID-19 pandemic and the petitioner had produced medical certificates evidencing that the Managing Trustee was affected with corona in May 2021.

4. Mrs.S.Premalatha, learned junior standing counsel, accepts notice

for the respondents. By referring to paragraph 7 of the impugned order, learned counsel submits that it was noticed therein that the petitioner had filed returns of income for assessment year 2021-2022 and 2022-2023 on 07.02.2022 and 07.10.2022, respectively, and that this was during the period when assessment proceedings for assessment year 2020-2021 took place. On that basis, she submits that the explanation of the petitioner was rejected.

5. As per sub-section (3) of Section 264, a revision application is required to be made within one year from the date on which the relevant order was communicated to the revision applicant. In this case, the assessment order is dated 23.09.2022 and the revision application was filed on 26.12.2022. Hence, the petition was filed well within the period of limitation. Once a petition is filed within the period of limitation, it becomes necessary for the authority receiving such petition to consider and dispose of such petition on merits. Sub-section (1) of Section 264 confers wide powers to pass orders in revision either *suo motu* or on application. The petitioner asserts that the entire expenditure was disallowed in the assessment order dated 23.09.2022 and has requested for a revision of such order. In these

facts and circumstances, it is necessary to examine the revision application on merits and dispose of the same in accordance with law. Since this was not done, the matter requires reconsideration.

6. For reasons set out above, the impugned order dated 14.03.2024 is set aside and the matter is remanded for reconsideration on merits and in accordance with law.

7. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

12.06.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No
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SENTHILKUMAR RAMAMOORTHY,J

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To

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