IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **11.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.13780 of 2024
and W.M.P.Nos.14950 & 14951 of 2024

Naranchetty Surendran Kannan ... Petitioner

-vs-

1.Income Tax Officer,
Non. Corp Ward 5(1) Che,
Income Tax Office, BSNL Tower No.16,
Greams Road,
Chennai 600 006.

2.Chief Commissioner of Income Tax-1,
Room No.701, 7th Floor,
Wanaparthy Block, 121, M.G.Road,
Chennai 600 003. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for records in the impugned order dated 24.03.2024 bearing DIN No. ITBA/AST/F/148A/2023-24/1063294240(1) for the Assessment Year

2017-2018 passed by the 1st respondent upon the approval of the 2nd respondent under Clause (d) of Section 148A of the Income Tax Act, 1961 and the consequentially, impugned notice dated 26.03.2024 bearing DIN No. ITBA/AST/S/148_1/2023-24/1063349762(1) for the Assessment Year 2017-2018 issued by the 1st respondent under Section 148 of the Income Tax Act, 1961 and quash the same as being illegal, arbitrary, in excess of jurisdiction and in violation of principles of natural justice.

For Petitioner : Mr.MV.Swaroop

For Respondents : Dr.B.Ramaswamy, Sr. SC

****

ORDER

An order under Section 148A(d) and a notice under Section 148 of the Income Tax Act, 1961 (the Income Tax Act) are assailed on the ground that the petitioner's reply dated 06.03.2024 was not taken into consideration. In respect of assessment year 2017-18, a notice under

Section 148A(b) of the Income Tax Act was issued to the petitioner on 19.02.2024. The petitioner hand-delivered a reply dated 16.03.2024 on 08.03.2024. The impugned order was issued thereafter on 24.03.2024.

2. Learned counsel for the petitioner invited my attention to the impugned order under Section 148A(d) and pointed out that it is recorded therein that the assessee did not respond to the notice under Section 148A(b) of the Income Tax Act. By inviting my attention to the reply and to the acknowledgment thereon, learned counsel submits that the interest of justice warrants that the petitioner's reply be taken into consideration.

3. Dr.B.Ramaswamy, learned senior standing counsel, accepts notice for the respondents. He points out that the notice under Section 148A(b) was sent to three different addresses of the petitioner so as to ensure that the petitioner receives the same are responds thereto. He further submits that the petitioner was called upon to

submit a reply on or before 07.03.2024 electronically at the specified website. Instead of replying within the specified date, he submits that the petitioner appears to have hand-delivered the notice on 08.03.2024, which is beyond the last date. According to learned senior standing counsel, the reply could not be considered because of these reasons. He further submits that the petitioner should be put on terms in case the Court is inclined to provide another opportunity to the petitioner.

4. The petitioner's reply dated 06.03.2024 is on record. Such reply bears an endorsement indicating receipt on 08.03.2024. Therefore, it is clear that the reply was sent one day beyond the prescribed time limit. The impugned order and notice, however, were issued on 24.03.2024 and it is recorded therein that the assessee has not responded to the notice issued under Section 148A(b) dated 19.02.2024. In these facts and circumstances, the interest of justice warrants that the order and notice be set aside so as to enable the consideration of the petitioner's reply. Since the petitioner replied

after the specified time limit, the petitioner is directed to pay a sum of Rs.5000/- as costs to the Adyar Cancer Institute within ***fifteen days*** from the date of receipt of a copy of this order as a condition.

5. For reasons set out above, impugned order dated 24.03.2024 and impugned notice dated 26.03.2024 are set aside subject to the above condition and the matter is remanded for re-consideration by the first respondent. The petitioner is permitted to submit a detailed reply to the notice under Section 148A(b) within ***fifteen days*** from the date of receipt of a copy of this order. To enable the petitioner to upload such reply, the respondents are directed to provide access to the portal. Upon receipt of the petitioner's reply, the first respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue an order in accordance with law.

6. W.P.No.13780 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.14950 and 14951 of 2024 are closed.

11.06.2024

rna
Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

To

1.Income Tax Officer,
Non. Corp Ward 5(1) Che,
Income Tax Office, BSNL Tower No.16,
Greams Road,
Chennai 600 006.

2.Chief Commissioner of Income Tax-1,
Room No.701, 7^{th} Floor,
Wanaparthy Block,
121, M.G.Road,
Chennai 600 003.

SENTHILKUMAR RAMAMOORTHY,J

rna

W.P.No.13780 of 2024
and W.M.P.Nos.14950 & 14951 of 2024

11.06.2024