IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.15896 of 2022 and
W.M.P.No.15198 of 2022

Mukundan Vijayan ...Petitioner

Vs.

Income Tax Officer,
Corporate Ward – 1 (1),
Chennai-34. ...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent to consider the various grievances raised by the respondent, including the grievances dated 18.08.2021 and 27.08.2021 and accordingly pay the petitioner the refund due to him for the Assessment Year 2007-2008 in accordance with law.

For Petitioner	: Ms.Ashwini Vaidialingam for Mr.Suhrith Parthasarathy
For Respondent	: Mr.D.Prabhu Mukunth Arunkumar, Junior Standing Counsel

O R D E R

The petitioner seeks a direction to consider the grievances raised previously, including on 18.08.2021 and 27.08.2021, and consequently refund amounts due for assessment year 2007-2008.

2. The petitioner is an individual assessee. He filed the return of income for assessment year 2007-2008 on 31.07.2007. As regards the assessment proceedings, the matter was eventually resolved by way of a full and final settlement under the Direct Tax Vivad Se Vishwas Act, 2020. The refund due to the petitioner was calculated in a sum of Rs.8,64,604/-. Since such refund remained unpaid in spite of raising multiple grievances, the present writ petition was filed.

3. Learned counsel for the petitioner submitted that the respondent has unlawfully made adjustments against alleged arrears from previous assessment years. She points out that the petitioner did not receive intimations or demand notices in respect of the adjustments made as per details set out in paragraph 5 of the counter affidavit. Therefore, she contends that the amount of Rs.8,64,604/- should be paid and that these adjustments are unlawful and illegal. Even as regards the demand for

assessment year 2009-2010, learned counsel submits that the alleged arrears were brought to the attention of the petitioner only in 2017.

4. In response to these contentions, Mr.D.Prabhu Mukunth Arunkumar, learned junior standing counsel, submits that the adjustments were made by the CPC since there were amounts outstanding from the petitioner in respect of earlier assessment years. After making such adjustments, he points out that a sum of Rs.3,08,558/- was credited to the petitioner/assessee's bank account on 15.02.2023. He also submits that it is open to the petitioner to raise grievances with regard to the adjustments and that such grievances would be considered and disposed of.

5. After filing the writ petition, the petitioner has submitted a representation on 08.06.2023 to the Additional Commissioner, Corporate Range 1. By such representation, the petitioner asserted that the TDS specified in the return of income and in Form 26 AS for assessment year 2009-2010 was not taken into consideration while determining the demand of Rs.1,86,160/- and interest of Rs.2,54,957/- for assessment year 2009-2010. As regards other assessment years, the position taken by the petitioner is that no intimations or demand notices were issued in respect

of alleged arrears and that, therefore, the adjustments made on 15.02.2023 and 22.06.2022 are unlawful. All these adjustments were made after the writ petition was filed and it is unclear from paragraph 5 of the counter as to whether these adjustments were made after issuing demand notices in relation thereto. These aspects would be required to be considered upon the petitioner raising a grievance in respect thereof.

6. Therefore, W.P.No.15896 of 2022 is disposed of by permitting the petitioner to submit a consolidated grievance petition before the jurisdictional assessing officer not only in respect of assessment year 2009-2010 but also in respect of other assessment years in relation to which adjustments were made. Such grievance petition shall be submitted within a period of 15 days from the date of receipt of a copy of this order. Upon receipt thereof, the assessing officer is directed to consider the grievance petition, including contentions regarding the unlawful adjustments without issuing demand notices, provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter dispose of such grievance petition by a speaking order. This exercise shall be completed within a period of two months from the date of receipt of the grievance petition. There will be no order as to costs. Consequently,

connected miscellaneous petition is closed.

12.03.2024

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

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To

Income Tax Officer,
Corporate Ward – 1 (1),
Chennai-34.

SENTHILKUMAR RAMAMOORTHY,J.

kj

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