IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.09.2024

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The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.16194 of 2023
and
W.M.P.Nos.15583 & 15584 of 2023

Arulprakash Thirumoorthi ...Petitioner

Vs.

1. The Principal Commissioner of Income Tax-1,
   No.63, Race Course Road,
   Coimbatore 641 018.
2. The Income Tax Officer,
   Assessment Unit,
   National Faceless Assessment Centre,
   Income Tax Department,
   Ministry of Finance,
   Room No.401, 2nd Floor, E-Ramp,
   Jawaharlal Nehru Stadium,
   Delhi 110 003. ... Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records in DIN:ITBA/REV/F/REV7/2022-23/1050872520(1) dated 17.03.2023 on the file of the 1st respondent relating to A.Y. 2014-15 and quash the same.

For Petitioner : Mr.I.Dinesh
For Respondents : Dr.B.Ramaswamy
Senior Standing Counsel

ORDER

Challenging the order dated 17.03.2023 passed by the first respondent, the petitioner has filed the present Writ Petition.

2. The learned counsel for the petitioner submitted that the second respondent issued notices dated 18.11.2021 & 13.01.2022 under Section 142(1) of the Income Tax Act (in short, 'the Act'), calling upon the petitioner to submit various details, followed with issuance of show cause notices proposing to pass an order of assessment under Section 147 of the Act and sought for objections, if any. While so, the second respondent proceeded to pass the order dated 16.03.2022, without affording any opportunity of personal hearing to the petitioner. Aggrieved by the said order passed by the second respondent, the petitioner had filed a revision petition, dated 17.10.2022 under Section 264 of the Act before the first respondent, wherein, the first respondent sought for a report from the Assessing Officer/lower authority, however, the report was not made available to the petitioner till date and without providing the copy of the same, the present impugned order, dated 17.03.2023 came to be passed by the first respondent, resulting in violation of principles of natural justice.

3. The learned counsel for the petitioner contended that the additional

grounds raised in the revision petition have not at all been discussed. Hence, he prayed for appropriate orders from this Court.

4. Dr.B.Ramaswamy, learned Senior Standing Counsel appearing for the respondents strongly opposed the contention made by the learned counsel for the petitioner and submitted that the order dated 17.03.2023 under Section 264 of the Act was issued after due consideration of the facts and submissions made by the petitioner, and the impugned order has been passed by the first respondent in accordance with the provision of the Income Tax Act. Further, he fairly submitted that, if at all the petitioner is aggrieved by the order dated 16.03.2022, the only alternative remedy available is to prefer an Appeal before the Appellate Authority. However, without filing any appeal against the order dated 16.03.2022, the petitioner had filed the revision petition under Section 264 of the Act, which is unsustainable.

5. At this juncture, the learned counsel for the petitioner submitted that liberty may be granted to the petitioner to file an appeal against the exparte order dated 16.03.2022, and the revision petition may be closed.

6. In response, the learned Senior Standing Counsel for the

respondents submitted that two years have already been elapsed, since the order was passed on 16.03.2022 and this Court may pass appropriate orders with regard to filing of appeal.

7. Heard the learned counsel for the petitioner as well as the learned Senior Standing Counsel for the respondents and perused the materials available on record.

8. Though a larger relief was sought for in the present Writ Petition, at the time of arguments, the learned counsel for the petitioner restricted the relief to the extent of direction to file an appeal against the order dated 16.03.2022.

9. In view of the above submission made by the learned counsel on either side, it is clear that an alternative remedy of filing an appeal is available to the petitioner before the Appellate Authority against the order dated 16.03.2022. Hence, this Court is not inclined to entertain the present Writ Petition.

10. In the result, this Writ Petition is dismissed, granting liberty to the

petitioner to challenge the order dated 16.03.2022 by way of an appeal before the Appellate Authority within a period of thirty (30) days from the date of receipt of a copy of this order. On such appeal being filed by the petitioner as directed above, the Appellate Authority shall consider the same and pass appropriate orders on merits and in accordance with law, without rejecting it on the ground of limitation. No costs. Consequently, connected Miscellaneous Petitions are closed.

25.09.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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Krishnan Ramasamy,J.,
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