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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.14990 of 2024 and
W.M.P.Nos.16288 & 16290 of 2024

AKR Academy,
Represented by its Trustee,
K.Lakshmi Narayanan,
SF No.4/3, Avinashi Road, Annaipudur,
Thirumuruganpoondi,
Tirupur-641 652. ... Petitioner

Versus

1. The Commissioner of Income Tax (Exemption)
   121, Mahatma Gandhi Road,
   Chennai 600 034.

2. The Assistant Commissioner of
   Income Tax, Exemptions
   1510, Trichy Road,
   Coimbatore 641 018. ... Respondents

Prayer : A Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari to call for the records of the 1st respondent Commissioner of Income Tax (Exemption) Chennai in his file CIT(E)/4/264/2022-23 dated 18.03.2024 (DIN & Letter No.ITBA/COM/F/17/2023-24/10628655669(1) for assessment year 2018-19 quash the same.

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For Petitioner : Mr. T.N.Seetharaman

For Respondents : Mr. V. Mahalingam,
Senior Standing Counsel

Mrs.S.Premalatha,
Junior Standing Counsel

ORDER

An order dated 18.03.2024 rejecting a revision petition under Section 264 of the Income-tax Act, 1961, is challenged in this writ petition.

2. The petitioner is a public charitable trust (the Trust). The Trust was granted approval under Section 10(23C)(vi) of the Income-tax Act on 17.06.2013. The Trust runs the AKR Academy School and has a large number of students. In respect of assessment year 2018-19, the petitioner had filed the return of income on 31.10.2018. While filling up the said return, the petitioner states that an inadvertent error occurred by mentioning '0' in the column relating to exemption. By pointing out that the audit report in Form 10BD establishes that the entire income of Rs.11,00,19,963/- was applied wholly for the objects of the Trust, the petitioner approached the CPC for rectification. Since such request was

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rejected by order dated 11.05.2022, the revision application was filed on 09.06.2022. Since such revision application was rejected by order dated 18.03.2024, the present writ petition was filed.

3. Learned counsel for the petitioner submits that the Trust was granted approval in the year 2013 and has consistently claimed exemption in each assessment year. Merely on account of an inadvertent error while filing Form ITR-VII, he submits that the petitioner had been denied the benefit of exemption. Learned counsel further submits that the CIT has wide powers under Section 264 of the Income-tax Act as recognized by this Court in several judgments.

4. Mrs.S.Premalatha, learned senior counsel, accepts for the respondents. By referring to the impugned order, she points out that the first respondent recorded cogent reasons for rejecting the revision application. In particular, she points out that the petitioner failed to rectify the error upon receipt of intimation under Section 143(1) and that the petitioner filed defective returns in other assessment years also.

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5. In the affidavit in support of this writ petition, the petitioner has stated that the Trust was set up with the object of promoting education. The Trust was granted approval under Section 10(23C) of the Income-tax Act in the year 2013. The impugned order does not contain any indication that the Trust is not entitled to exemption. Indeed, the first respondent has examined the returns of income of the petitioner for assessment years 2017-18 and 2019-20. Those returns of income would clearly indicate whether the assessee claimed exemption during those years. After examining those returns of income, the only observation of the first respondent is that the petitioner made errors while filing returns in respect of those years also. As correctly submitted by learned counsel for the petitioner, wide powers are conferred under Section 264 provided the party concerned has not filed an appeal against the relevant order. Without examining the petitioner's request on merits, the first respondent has rejected the application on the ground of delay. Therefore, the matter requires reconsideration.

6. For reasons set out above, the impugned order dated 18.03.2024 is set aside and the matter is remanded to the first respondent for

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reconsideration. The first respondent is directed to reconsider the matter by taking into account the observations set out in this order and issue a fresh order within three months from the date of receipt of a copy of this order.

7. W.P.No.14990 of 2024 is disposed of on the above terms without any order as to costs. Consequently, the connected miscellaneous petitions are also closed.

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Index : Yes /No

Speaking Order : Yes /No

Neutral Case Citation : Yes /No

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SENTHILKUMAR RAMAMOORTHY,J.

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To

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