IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.15926 of 2024
and
W.M.P.Nos.17393 & 17394 of 2024

S.R. Natarajan,
12/25, Titan Township,
Mathigiri Hosur Cattle Farm,
Hosur, Tamil Nadu-635 110. ... Petitioner

Versus

The Assessment Unit,
Income Tax Department. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order dated 01-02-2024 with the reference ITBA/AST/S/143(3)/2023-24/1060394380(1) in the files of the Respondent, quash the same, and further direct the Respondent to *de novo* adjudicate the case after providing the Petitioner with an opportunity of hearing.

For Petitioner : Mr. S. Ramamurthy

For Respondent : Dr. B. Ramaswamy,
Senior Standing Counsel.

ORDER

An assessment order dated 01.02.2024 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. The petitioner purchased an agricultural land for a total sale consideration of Rs.1.10 crore. In order to discharge the sale consideration for purchase of the property, the petitioner asserts that he received personal loans from relatives and friends for an aggregate amount of Rs.83,45,000/-. He also submits that he sold plots owned by him, took jewel loans and used a sum of Rs.5,10,000/- from his savings. Upon scrutiny of the return of income of the petitioner for the relevant assessment year, notices under Sections 143(2) and Section 142(1) were issued to the petitioner in respect of the cash deposits made in his account. The petitioner replied on 25.11.2023 and stated that the cash deposits were from loans received from multiple persons. Upon considering the petitioner's reply and being dissatisfied therewith, show cause notice dated 10.01.2024 were issued. This was followed by the impugned assessment order.

3. Learned counsel for the petitioner submits that the impugned assessment order is vitiated because additions were made twice in respect

of the same transaction. On the one hand, he submits that the entire purchase consideration of R.1.10 crore was added to the petitioner's income and, on the other, the loans availed of by the petitioner towards purchase consideration for the property were also separately added. At the time the impugned assessment order was issued, learned counsel submits that the petitioner was unable to obtain confirmation letters from the lenders, and that subsequently, such confirmation letters were obtained. He refers to the confirmation letters at page no.115 to 134 of the typed set of papers. He further submits that the petitioner is in financially stringent circumstances and relies upon the pay slip for the month of March 2024, to substantiate that the petitioner receives a net pay of Rs.38,910/- per month. Since the petitioner currently has relevant certificates to establish that the receipts in the bank account do not amount to unexplained money, he seeks a further opportunity. On instructions, learned counsel submits that the petitioner agrees to remit a sum of Rs.6 lakhs towards the disputed tax demand as a condition for remand.

4. Dr. B. Ramaswamy, learned senior standing counsel, appears on behalf of the respondent. By referring to the impugned assessment order

and, in particular, the details of opportunities given, he submits that multiple opportunities were provided to the petitioner to explain the credits in the petitioner's bank account. He also points out that most notices were not responded to by the petitioner. According to him, the impugned assessment order was issued in such circumstances and that the petitioner has approached this Court upon receipt of the notice on demand.

5. On examining the impugned assessment order, it is clear that the petitioner's return of income was selected for scrutiny and it was found from the bank statement of the petitioner in Canara Bank that there were significant cash deposits. The petitioner's reply dated 25.11.2023 also appears to have been taken into account. Thereafter, additions were made both in respect of the purchase of immovable property and in respect of cash deposits.

6. The petitioner has placed on record sale deed dated 21.03.2022. This document indicates that the immovable property was purchased for a sum of Rs.1,10,00,000/-. Both in the reply dated 25.11.2023 and in the affidavit filed in support of the writ petition, the petitioner asserts that the

credits in the bank account were loans availed of by the petitioner towards purchase of the immovable property for Rs.1.10 crore. In these circumstances, the addition towards purchase of the property calls for reconsideration. However, it is evident from the record that the petitioner did not submit all relevant documents such as confirmation letters from the lenders concerned or documents evidencing the financial capability of the lenders so as to establish that the credits actually represented loans extended by the alleged lenders. Consequently, revenue interest is required to be protected while remanding the matter. For such purpose, by excluding the addition of Rs.1.10 crore and taking into consideration the other additions, it is just and appropriate that the petitioner be directed to remit a sum of Rs.6 lakhs towards the disputed tax demand as a condition for remand.

7. For reasons set out above, the impugned assessment order dated 01.12.2024 is set aside and the matter is remanded for reconsideration subject to the condition that the petitioner remits a sum of Rs.6 lakhs towards the disputed tax demand under the impugned assessment order. Such remittance shall be made within four weeks from the date of receipt

of a copy of this order. The petitioner is also permitted to submit additional documents. Subject to receipt of the sum of Rs.6 lakhs, the respondent is directed to provide access to the portal so as to enable the petitioner to upload additional documents. Upon receipt of such additional documents, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing by video conference, and thereafter issue a fresh order within three months from the date of receipt of additional documents from the petitioner.

8. The Writ Petition is disposed of on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

01.07.2024

Index : No
Speaking Order : Yes
Neutral Case Citation:No

klt

To

The Assessment Unit,
Income Tax Department.

SENTHILKUMAR RAMAMOORTHY,J.

klt

W.P.No.15926 of 2024
and
W.M.P.Nos. 17393 & 17394 of 2024

01.07.2024