IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.08.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.15874 of 2024
and
W.M.P.Nos.17306 & 17308 of 2024

V.Kalyanasundaram ...Petitioner

Vs.

1. The Income Tax Officer,
 Ward2(1), TRP/BSNL Annex Building, 661/4,
 BSNL Annex Building,
 Rayapuram Road, Tirupur, Tamil Nadu 641 601.

2. The Assessment Unit,
 Income Tax Department,
 National Faceless Assessment Centre,
 Connaught lance,
 Connaught Place,
 New Delhi 110 001. ... 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 relating to the AssessmentorderinNo.ITBA/AST/S/147/2023-24/1058180713(1)dated

23/11/2023 issued by the second respondent and quash the same.

For Petitioner : Mr.V.Sivakumar

For Respondents : Dr.B.Ramaswamy
Senior Standing Counsel

ORDER

This Writ Petition has been filed by the petitioner challenging the impugned assessment order dated 23.11.2023 passed by the second respondent.

2. Though a larger relief was sought for in the present Writ Petition, however, at the time of arguments, the learned counsel for the petitioner restricted his relief and seeks leave of this Court to file a statutory appeal against the impugned assessment order dated 23.11.2023.

3. The main issue raised in this Writ Petition is that the impugned assessment order came to be passed by the second respondent is in violation of principles of natural justice.

4. Dr.B.Ramaswamy, learned Senior Standing Counsel appearing for the respondents referring to para no.2 of the assessment order, submitted that

before passing the impugned assessment order, the number of opportunities were given to the petitioner by the Assessing Officer. However, the grievance of the petitioner is that all those notices were not received by him. Since the show cause notice and notices issued by the first respondent were sent to the e-mail ID which belongs to the exofficio Accountant, the said accountant have not informed about the said show cause notices, which led to the Assessing Officer passing the present impugned assessment order. The learned counsel for the petitioner submitted that, on 21.03.2024 only the petitioner came to know about the impugned assessment order through phone call received from the Office of the Coimbatore Income Tax Office, and hence, he prays for appropriate orders.

5. 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.

6. In the present case, the only contention of the learned counsel for the petitioner is that failure on the part of the respondents to provide an opportunity to file a reply to the show cause notices and participate in the

proceedings for personal hearing. The present impugned assessment order came to be passed by the second respondent. A perusal of para no.2 of the impugned assessment order shows that number of opportunities were provided by the respondents and the same has been narrated as contented by the learned Senior Standing Counsel for the respondents. Therefore, this Court is of the opinion that all these aspects have to be verified by the appellate authority, whether notices were issued to the petitioner or not. These aspects will be considered very well in the appeal. Hence, this Court, without going into the merits of the case, grants leave to the petitioner to file an appeal, since the petitioner has an alternate and efficacious remedy to file an appeal before the Appellate Authority. Therefore, this Court is not inclined to entertain the present Writ Petition filed by the petitioner.

7. In the result, this Writ Petition is dismissed. However, liberty is granted to the petitioner to challenge the order impugned herein 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, 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 and without being influenced by any of the observations made by this Court. No costs. Consequently, connected Miscellaneous Petitions are closed.

28.08.2024

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