IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.22709 of 2024
& W.M.P.No.24731 of 2024

Sundarapandian

... Petitioner

Vs.

1.Assessment Unit,
Income Tax Department,
National Faceless Assessment Centre,
Delhi.

2.The Income Tax officer,
Non-Corporate Ward-4(3),
REAC, Coimbatore 641 018,
Tamil Nadu.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the file of the 1st respondent and quash

(i) The impugned order No.1 under section 147 read with Section 144B of the Act in DIN&Order No. ITBA/AST/S/147/2023-24/1062008247(1) dated 05.03.2024 for the AY 2015-16 passed by the 1st Respondent,

(ii) The impugned notice No.1 under section 148 of the Act in DIN & Notice No. ITBA/AST/S/148_1/2022-23/1042638733(1) dated 07.04.2022 for the AY 2015-16 issued by the 2nd Respondent,

(iii) The impugned order No.2 under section 148A(d) of the Act in DIN & Order No.ITBA/AST/F/148A/2022-23/1042623580(1) dated 07.04.2022 for the AY 2015-16 passed by the 2nd Respondent,

(iv) The impugned notice No.2 issued under section 148A(b) of the Act in DIN & Notice No. ITBA/AST/F/148A(SCN)/2021-22/1041348117(1) dated 23.03.2022 for the AY 2015-16 issued by the 2nd Respondent.

For Petitioner	:	Mr.J.Saravanan
For Respondent	:	Dr.B.Ramaswamy, Senior Standing counsel

ORDER

This writ petition has been filed challenging the impugned notices dated 07.04.2022 & 23.03.2022 and the impugned orders dated 05.03.2024 & 07.04.2022 passed by the respondents.

2. The learned counsel for the petitioner would submit that in this case, the dispute is with regard to the deposit of a sum of Rs.64,58,320/- which was made in the bank account of the petitioner. In this regard, the respondent had issued show cause notice and passed the impugned orders by treating the said amount as "unexplained investment". However, according to the petitioner, the said amount was obtained out of sale proceeds of jewelery and other ritual items and from the donation received by the petitioner. Further he would submit that the said amount will be utilized for construction of temple. In this regard a detailed reply was also filed by the petitioner, along with all the documentary evidences, before the respondent. However, the same was not considered by the respondents while passing the impugned orders. Hence, he would contend that the said impugned orders came to be passed by the

respondents in non-application of mind.

3. Further, he would submit that now, the petitioner had also produce all the relevant documents for the perusal of this Court to substantiate his case and a copy of the said documents were also circulated to the learned Senior Standing counsel for the respondent. Hence, he requests this Court to quash the impugned orders passed by the respondents.

4. During the previous occasion, the learned Senior Standing counsel appearing for the respondents had strongly objected for entertaining this petition. However, today, he had admitted the genuinity in the case of the petitioner upon perusal of the documents filed by the petitioner. Hence, he requests this Court to set aside the impugned orders and remand the matter back to the respondents.

5. Heard the learned counsel for the petitioner and the learned Senior Standing counsel appearing for the respondents and also perused the materials available on record.

6. In the case on hand, the only disputes is with regard to the deposit of a sum of Rs.64,58,320/-, which was made in the bank account of the petitioner. The respondent issued the show cause notice and passed the impugned order, whereby they had treated the said amount as "unexplained investment".

7. Upon perusal of the documentary evidences produced by the petitioner, it is clear that the said amount was obtained out of sale proceeds of the jewelery and other ritual items and also from the donations received by the petitioner, which has to be used for construction of temple. In this regard, a detailed reply was filed by the petitioner along with all the documentary evidences. However, without considering the same, the respondents had passed the impugned orders in non-application of mind. In such case, the said impugned orders are

liable to be set aside.

8. Further, though a request was made by the learned Senior Standing counsel to remand the matter back to the respondent, this Court is of the view that once the genuinity of the transaction is proved by the petitioner before this Court, there is no necessity for remanding the matter back to the respondents. Hence, this Court is inclined to quash the entire proceedings against the petitioner. Accordingly, the impugned notices dated 07.04.2022 and 23.03.2022 and also the impugned orders dated 05.03.2024 and 07.04.2022 are hereby quashed.

9. In the result, this writ petition is allowed. No cost. Consequently, the connected miscellaneous petition is closed.

04.10.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa

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