



WEB COPY



W.P.No.22991 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.22991 of 2024
& W.M.P.Nos.25069 & 25070 of 2024

Mohammed Meerasha

... Petitioner

Vs.

Income Tax Officer,
Non-Corp. Ward 5(1) CHE,
Income Tax Department – BSNL Tower,
No.16, Greams Road,
Chennai 600 006.

... 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 relating to the Assessment order in DIN & Order No.ITBA/AST/S/147/2023-24/1061362544(1) dated 23.02.2024 passed by the respondent relating to the AY 2019-20 and to quash the same as violative of principles of natural justice; contrary to the provisions; notice issued under Section 148 of the Act was not properly served as contemplated under the Act and unsustainable in law.



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For Petitioner : Mr.K.Jayachandran
For Respondent : Dr.B.Ramaswamy,
Senior Standing Counsel

ORDER

This writ petition has been filed challenging the impugned order dated 23.02.2024 passed by the respondent.

2. Dr.B.Ramaswamy, learned Senior Standing counsel, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that a notice under Section 148 of the IT Act, was issued to the petitioner, who was a Non-Resident Indian. Pursuant to the same, an assessment order was also passed on 23.02.2024. Against the said assessment order, the petitioner has preferred an appeal along with a stay application. However, no order was passed by the respondent in both the appeal and the stay application till date. Therefore, without any other option, this petition has been filed



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challenging the impugned order dated 23.02.2024.

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4. In reply, the learned Senior Standing counsel appearing for the respondent has strongly opposed the request made by the petitioner stating that for the assessment year 2019-2020, the petitioner has deposited a sum of Rs.74,00,000/- along with rental income, however, he has failed to file the returns, due to which, the notice under Section 148 of the IT Act was issued by the respondent and the assessment order came to be passed based on the arrears of amount payable by the petitioner. Further, since the petitioner has preferred an appeal against the said assessment order, he insisted this Court to dismiss the present petition and pass appropriate orders.

5. At this juncture, though the learned counsel for the petitioner had sought for larger relief in this petition, he had restricted his relief to the extent to request this Court to direct the respondents to consider and dispose of the appeal and the stay application filed by the petitioner.



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6. Heard the learned counsel for the petitioner and the learned Senior Standing counsel for the respondent and also perused the materials available on record.

7. In the present case, it appears that the petitioner has already preferred an appeal along with a stay application before the respondent and today, the learned counsel for the petitioner has restricted his relief and requested this Court to direct the respondent to consider the appeal and the stay application filed by the petitioner.

8. In view of the above, though this petition has been filed challenging the assessment order, considering the submissions made by the petitioner and the learned Senior Standing counsel for the respondent, this Court directs the respondent to consider the appeal and the stay application filed by the petitioner and dispose of the same on its own merits and in accordance with law within a period of 6 weeks from the date of receipt of a copy of this order.

9. In the result, this writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are also closed.



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Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

nsa

To

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KRISHNAN RAMASAMY.J.,
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