IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2024

CORAM

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.Nos.27180 & 27195 of 2021
and
W.M.P.Nos.28671 & 28693 of 2021

Latha C.Mohan ... Petitioner in both W.Ps.

vs.

1. The Principal Commissioner of Income Tax,
Chennai-3, Aayakar Bhawan, 121,
M.G.Road, Nungambakkam,
Chennai 600 034.

2. The Income Tax Officer,
Corporate Ward-6(1),
Aayakar Bhawan, 121,
M.G.Road, Nungambakkam,
Chennai 600 034.

(R, R2 Cause title amended vide
Order dated 21.03.2023 made
in WMP.No.29861/2021) ... Respondents in both W.Ps.

Prayer in W.P.No.27180 of 2021: Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records in order bearing number 231213270290121 dated 29.01.2021 passed by the 1st respondent, quash the same and consequently direct the 1st and 2nd respondent to accept the declaration filed by the petitioner under DTVSV Act.

Prayer in W.P.No.27195 of 2021: Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorariied Mandamus, calling for the records in the impugned order bearing acknowledgement Numbers 137727150080121 and 137841360080121 for 2009-2010 and 2010-11 respectively dated 08.01.2021 passed by the 1st respondent , quash the same and consequently direct the 1st and 2nd respondent to accept the declaration filed by the petitioner under DTVSV Act.

For Petitioner(both W.Ps.) : Mr.K.Senguttuvan

For Respondent (both W.Ps) : Mrs.S.Premalatha
Junior Standing Counsel

COMMON ORDER

The petitioner is before this Court against the impugned orders dated 29.01.021 and 08.01.2021 respectively passed under the Direct Tax Vivad Se Vishwas Scheme, 2020 for the following Assessment years 2009 to 2013

W.P.	Date of Impugned order	Assessment Year
27180/2021	29.01.2021	2012-2013
27190/2021	08.01.2021	2009-2010 & 2010-2011

2. By the impugned order, the applications filed by the petitioner to settle the dispute under the Direct Tax Vivad Se Vishwas Scheme, 2020 has been rejected on the ground that no appeal was pending on the specified date as defined in the aforesaid Act.

3. The learned counsel for the petitioner would submit that the petitioner had indeed filed appeals, both before the Commissioner of Income Tax (Appeals) and the Income Tax Appellate Tribunal for the respective assessment years.

4. The learned counsel for the petitioner would submit that in the Finance Act, 2024 Vivad Se Vishwas Scheme was re-introduced which gives a liberty to the petitioner to settle the dispute.

5. The learned counsel for the petitioner fairly submits that the

issue is squarely covered against the petitioner as per the decision of this Court rendered in W.P.Nos.19466 of 2021 etc batch dated 29.04.2022 in the case of **M/s.Cortex Enterprises Rep,.by its Partner Mr.Aamir vs. The Principal Commissioner of Income Tax -1, 121, Mahatma Gandhi Road, Aayakar Bhavan, Chennai 600 104 and 2 Others.**

6. However, the learned counsel for the petitioner submitted that the petitioner would be able to apply under new Scheme if there is a direction to the Commissioner of Income Tax (Appeals) and the Income Tax Appellate Tribunal to dispose of the applications filed for condonation of delay in filing the appeals against the order of Commissioner of Income Tax (Appeals) and that of the Assessing Officer which are said to be pending for the respective assessment years.

7. Having considered the submissions made by the learned counsel for the petitioner and I am of the view, the present writ petitions are liable to be dismissed. It is open for the petitioner to settle the dispute under the New scheme if the petitioner is so desires and otherwise qualified, to settle the dispute under the New Scheme.

8. Suffice to state that the suitable applications for condonation of the delay filed before the respective Forum for the respective assessment years may be disposed by the respective forums to enable the petitioner to avail the benefit of Amnesty under the Finance Act, 2004.

9. With the above liberty, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

06.09.2024

Index : Yes/ No
Internet : Yes/No
Neutral Citation : Yes/No
kkd

<u>To</u>

1. The Principal Commissioner of Income Tax,
   Chennai-3, Aayakar Bhawan, 121,
   M.G.Road, Nungambakkam,
   Chennai 600 034.

2. The Income Tax Officer,
   Corporate Ward-6(1),

Aayakar Bhawan, 121, M.G.Road,
Nungambakkam, Chennai 600 034.

C.SARAVANAN, J.

kkd

W.P.No.27180 & 27195 of 2021

06.09.2024