IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.27634 of 2024
& W.M.P.Nos.30152, 30153, 30155 & 30156 of 2024

Poongool Chettiar Nanthakumar,
119, Amman Koil Street,
Kondithope, Chennai,
Tamil Nadu 600 079,
PAN: AACPN4920A

... Petitioner

Vs.

1.The Assessment Unit,
Income Tax Department,
National e-Assessment Centre, Delhi,
E-Ramp, Jawaharlal Nehru Stadium,
Delhi 110 003.

2.The Income Tax Officer -5,
Non-Corporate Ward 5(1) Chennai,
Income Tax Department,
No.16, Greams Road,
Chennai 600 006.

3.The Principal Commissioner of Income Tax-8,
Income Tax Department,
No.121, Nungambakkam High Road,

Chennai 600 034.

4.The Commissioner of Income Tax Appeal,
National Faceless Assessment Centre,
Delhi.

5.The Branch Manager,
HDFC Bank Limited,
No.442, P.H.Road,
Ground Floor, Maduravoyal,
Chennai 600 095.

6.The Branch Manager,
Indian Bank,
6th Vellala Street, Kundrathur,
Chennai 600 069.

7.The Branch Manager,
Indian Bank,
No.16/45 & 42/87,
Alagappa Road, Purasaiwakkam,
Chennai 600 084.

8.The Branch Manager,
ICICI Bank Limited,
Devapragasam Trade Centre,
No.15, Ph Road, Maduravayol,
Chennai 600 095.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records Portal vide No.ITBA/AST/S/148/2020-21/1032092407(1) dated 31.03.2021 issued by the 2nd respondent and impugned assessment order that was passed by the 1st respondent vide DIN:ITBA/AST/S/147/2021-22/1041981459(1) dated 29.03.2022 under Section 147 read with Section 144 and read with Section 144B of the Income Tax Act, 1961 for the assessment year 2014-15 vide PAN: AACPN4920A and quash the same being void, illegal, arbitrary, barred by limitation and against the settled principles of law and direct the 1st respondent to refrain from initiating the recovery of the demand raised against the penalty proceedings passed by the 1st respondent under Section 274 read with Section 271F and 271(1)(b) of the Income Tax Act, 1961.

For Petitioner	:	Mr.K.Thyagarajan
For Respondent	:	Dr.B.Ramaswamy, Senior Standing counsel, for R1 to R4

ORDER

This writ petition has been filed challenging the impugned assessment order dated 29.03.2022 passed by the 1st respondent and to direct the respondents to defer the recovery proceedings.

2. Dr.B.Ramaswamy, learned Senior Standing counsel, takes

notice on behalf of the respondents 1 to 4. 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 in the present case, the show cause notice was uploaded by the respondent in the ITBA Portal on 31.03.2021. The petitioner, being unaware of the said notice, had failed to file his reply in time, due to which, the impugned ex-parte assessment order was passed by the respondent on 29.03.2022. Pursuant to the said assessment order, the respondent had initiated the recovery proceedings vide attachment order dated 25.06.2024. Aggrieved over the same, an appeal and a stay petition were filed by the petitioner on 16.07.2024 before the concerned Appellate Authority. However, the said stay petition was not at all considered by the respondent till date. Therefore, the petitioner had approached this Court by way of the present writ petition to set aside the impugned order and to defer the recovery proceedings.

4. On the other hand, the learned Senior Standing counsel

appearing for the respondents 1 to 4 had strongly opposed for the request made by the petitioner and would submit that in the present case, the petitioner had already exercised their right, by way of filing an appeal against the impugned assessment order. When such being the case, it is not proper for the petitioner to file a writ petition, against the original assessment order and hence, he requests this Court to dismiss the present petition.

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

6. In the present case, the impugned assessment order was passed by the respondent on 29.03.2022 and pursuant to the said order, the recovery proceedings were initiated by the respondent vide bank attachment notice dated 25.06.2024, against which, an appeal and a stay petition were preferred by the petitioner. In such case, as contended by the learned Senior Standing counsel, since the petitioner had already exercised his right by way of filing an appeal against the original

assessment order, it is not proper for the petitioner to file this petition against the same assessment order. Therefore, this Court is not inclined to entertain the present writ petition.

7. In view of the above, this writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are also closed.

24.09.2024

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

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KRISHNAN RAMASAMY.J.,

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