IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **04.01.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.36018 of 2023
and W.M.P.Nos.35994 & 35995 of 2023

Sohan Raj Khanted Guvanthraj ... Petitioner

-vs-

1.Commissioner of Income Tax (Appeals),
National Faceless Appeals Centre (NFAC),
C-Block, 4th floor, S.P.M.Civic Centre,
New Delhi-110 001.

2.The Deputy/Assistant Commissioner of Income Tax,
The National Faceless Assessment Centre,
2nd floor, E-Ramp, Jawaharlal Nehru Stadium,
New Delhi-110 003.

3.Assistant Commissioner of Income Tax,
Non-Corporate Circle 4(1),
II Floor, BSNL Tower,
No.16, Greams Road, Chennai-600 006.

4. Principal Commissioner of Income Tax,
Range 8, II Floor, BSNL Tower,
No.16, Greams Road, Chennai-600 006. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari calling for the records in Order

No.ITBA/NFAC/S/250/2023-24/1056973515(1) dated 11.10.2023 passed by the 1st respondent in Appeal No.NFAC/2019-20/10183168 and quash the same.

For Petitioner : Mr.Joseph Prabakar

For Respondents : Dr.B.Ramasamy, Sr. Standing Counsel (IT)

ORDER

The petitioner assails the appellate order dated 11.10.2023 by which the Commissioner of Income Tax (Appeals) rejected the appeal filed by the petitioner.

2. The petitioner had filed his income tax returns for the assessment year 2020 - 2021 on 30.12.2020 declaring a total income of Rs.53,10,01,450/-. The assessment order in relation to such return was issued on 28.09.2022. In the said order, the assessing officer included a sum of Rs.23 Crores as income under Section 68 of the Income Tax Act, 1961 (the Income Tax Act) and proposed to tax the same under Section 115BBE of the Income Tax Act. The said inclusion of the sum of Rs.23 Crores formed the subject of the appeal.

According to the petitioner, the sum of Rs.23 Crores represented a genuine unsecured loan from an entity called M/s.Magunta Exports, Nellore. The assessing officer did not accept this contention because M/s.Magunta Exports had filed a return indicating nil income in the relevant assessment year. The appellate authority accepted all the conclusions of the assessing officer and rejected the appeal. The present writ petition arises in the said facts and circumstances.

3. Learned counsel for the petitioner invited my attention to the appellate order and pointed out that the appellate authority reproduced the grounds of appeal, the facts of the case, the written submissions of the appellant and the inferences and conclusions drawn by the assessing officer. Thereafter, learned counsel submits that the findings and conclusions were recorded in one paragraph, which contains no reasons in support of such conclusions.

4. Dr.B.Ramasamy, learned senior standing counsel (IT), accepts notice on behalf of the respondents. He submits that the

impugned order does not call for any interference and that the said order is supported by reasons. In support of this conclusion, he refers to the inferences recorded in the impugned order and points out that the entire transaction lacks credibility and was entered into for dubious purposes.

5. On examining the impugned order, I find that the appellate authority has set out the grounds raised by the appellant, the written submissions of the appellant and the inferences and conclusions drawn by the assessing officer. After setting out the above, the findings and decisions are recorded in a brief paragraph. The said paragraph is set out below:

> *"**6.2 Findings and decision:***
>
> *I have carefully considered the facts of the case as well as submissions filed by the appellant. I find no force in the arguments of the Appellant. The AO has analyzed the entire gamut of the transactions being undertaken by the Appellant, and also traced the trail of money from one company to the other. The AO has summed up the detailed inquiries in paras 7.1 to 7.6 of the assessment*

order and rightly concluded that the Assessee has not been able to establish the genuineness of the transaction and the credit-worthiness of the company M/s.Magunta Exports. The Appellant has not submitted any evidence in the appellate proceedings to this effect. The case laws referred to by the Assessee have been considered but they are not applicable to the facts of the Assessee's case. Accordingly, the addition of Rs.23 Crores made by the AO u/s 68 of the Income Tax Act, is hereby confirmed. The grounds of appeal no.4 and 6 are dismissed. "

From the above extract, it follows that the appellate authority has drawn the conclusion that the inferences and findings of the assessing officer are acceptable. However, there is nothing to indicate that the appellate authority independently applied his mind. The conclusions are in the nature of *ipse dixit* and no supporting reasons are discernible. On this sole ground, albeit without expressing any opinion on the merits of the matter, I am inclined to interfere with the appellate order.

6. Consequently, W.P.No.36018 of 2023 is allowed by quashing the impugned order dated 11.10.2023. As a corollary, the matter is remanded for reconsideration by the appellate authority. After providing a reasonable opportunity to the petitioner, the appellate authority is directed to dispose of the appeal by a reasoned order within a maximum period of four weeks from the date of receipt of a copy of this order. The petitioner is directed to extend full co-operation to ensure that the appeal is disposed of within the time limit specified above. There will be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

04.01.2024

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

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SENTHILKUMAR RAMAMOORTHY,J

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