IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

WP.No.36178 of 2023
and W.M.P.Nos.36164 and 36170 of 2024

A.Muralidharan .... Petitioner

Vs.

The Principal Commissioner
of Income Tax-1.
The Office of the Principal
Commissioner of Income Tax-1,
Coimbatore. ... Respondent

Prayer:- Writ Petition is filed, under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records of the respondent vide impugned order dated 09.11.2022 issued under C.No.AGTPM6691E/VSVS/PCIT/2022-2023 and quash the same and direct the respondent to declare the declaration made by the petitioner under Direct Tax Vivad Se Vishwas Act 2020 on 29.12.2020 for the assessment year 2007-2008 as valid.

For Petitioner : Mr.J.Manikandan
for Mr.A.Muralidharan
For Respondent : Dr.B.Ramaswamy
Senior Standing Counsel

ORDER

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent vide impugned order dated 09.11.2022 issued under C.No.AGTPM6691E/VSVS/PCIT/2022-2023 and quash the same and direct the respondent to declare the declaration made by the petitioner under Direct Tax Vivad Se Vishwas Act 2020 on 29.12.2020 for the assessment year 2007-2008 as valid.

2.The case of the petitioner is that the petitioner is regularly filing income tax return without any default. However, for the assessment years 2005 to 2008, the department has conducted investigation. After such investigation, separate assessment orders were passed against the petitioner vide assessment order dated 31.12.2009, 29.12.2008 and 31.12.2009 respectively. As per the said assessment orders, the Assessing Officer has not accepted the income declared in the returns and added additional incomes. Against the said assessment orders passed by the Assessing Officer, the petitioner had filed separate appeals before the Commissioner of Income Tax (Appeals). The Commissioner of IT (Appeals) has also confirmed the order passed by the Assessing Officer. Thereafter, the petitioner had filed appeal before the Income Tax Appellate Tribunal and the same was dismissed. Challenging the same, the petitioner filed Tax Cases (Appeal) before this Court vide Tax Cases Appeal Nos.607 to 610 of 2011.

3. During the pendency of the above appeals, the Government has introduced a settlement scheme through Direct Tax Vivad Se Vishwas Act 2020. As per the said Act, the assessee can pay 125-135 percent of disputed tax in case of search and 100 -100 percent of disputed tax in other than search cases and settle the tax disputes without any interest and penalty. Since the petitioner satisfied the eligibility criteria prescribed under the Said Act 2020, he had availed the benefit of the said settlement scheme. Therefore, the above said Tax Cases Appeals were disposed of by this Court vide order dated 08.08.2022.

(ii). After following the above procedures, the designated authority has determined the tax payable and issued a certificate dated 24.03.2021 stating that the petitioner had paid all the tax as determined by the designated authority to the tune of Rs.32,09,238/- on 24.03.2021 within due date i.e., 31.10.2021 both by way of adjustment of any refund and cash payment except a payment of Rs.8,11,416/- which was paid on

13.05.2022. The said payment of Rs.8,11,416/- was paid after the due date due to extreme pandemic conditions of COVID-19. Hence, he could not make the said payment within the due date. He further submitted that the time to make payment stood extended in the light of the order passed by the Hon'ble Supreme Court in Suo Moto Writ Petition (Civil) No.3 of 2020 vide order dated 10.01.2020, whereby, the Hon'ble Court has extended the limitation till 30.05.2022 in respect of all petitions and appeals. In the present case, the amount was paid within the extended period of limitation of 90 days i.e, 13.05.2022 and the same is within the limitation prescribed by the Hon'ble Supreme Court.

4. Per Contra, learned Senior Standing counsel appearing for the respondent submitted that since the amount was not paid within the period of limitation, the petitioner's application was rejected. However, any amount paid beyond the period of limitation will be rejected by the designated authorities. He further submitted that the payment made through the Direct Tax Vivad Se Vishwas Scheme will be considered only when the application was given by the petitioner. Hence, he prayed for dismissal of the petition.

5. Heard the learned counsel for the petitioner and the learned Senior standing counsel appearing for the respondent and perused the materials placed before this Court.

6. Considering the submission of the learned counsel for the petitioner for non-payment the balance tax amount to the tune of Rs.8,11,416/- within the limited period and the same was paid as per the extended period of limitation by virtue of the order of the Hon'ble Supreme Court referred supra, the petitioner is entitled to avail the benefit of extended time period for 90 days from 28.02.2022.

7. In the present case, the petitioner had paid the balance amount of Rs.8,11,416/- on 13.05.2022 and the same is within the extended period of 90 days as fixed by the Hon'ble Supreme Court. All these aspects were not considered by the respondent. Hence, the respondent is directed to accept the payment made by the petitioner and issue Form No.5 within a period of four(4) weeks from the date of receipt of a copy of this order.

8. With the above directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

03.10.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
msv

To

The Principal Commissioner
of Income Tax-1.
The Office of the Principal
Commissioner of Income Tax-1,
Coimbatore.

KRISHNAN RAMASAMY, J.

msv

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