BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.08.2024

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THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.(MD).No.3504 of 2020
and
W.M.P.(MD).Nos.2975 and 2976 of 2020

Vairavan Muthuraman ... Petitioner

Vs.

Assistant Commissioner of Income Tax,
Circle – 1,
Arunachalam Street,
Sekkalai Road,
Karaikudi. ...Respondent

<u>Prayer</u> : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the respondent dated 31.12.2019 under Section 147 r/w Section 143(2) of the Income Tax Act for the assessment year 2014-15 in DIN and Notice No.ITBA/PNL/S/271(1)(c)/2019-20/1023501082(1) in PAN : ABAPM0217G and quash the same.

For Petitioner : Mr.J.Vasudevan
for Mr.R.Srinivasan

For Respondent : Mr.N.Dilip Kumar
Senior Standing Counsel

ORDER

The present Writ Petition is filed challenging the impugned order of assessment dated 31.12.2019 under Section 147 read with Section 143(2) of the Income Tax Act primarily on the premise that the impugned order of assessment is made on the basis of change of opinion inasmuch as the subject matter of re-assessment, namely, claim of income and expenditure has been the subject matter of assessment under Section 143(3) of the Act vide order dated 31.12.2016.

2. It was pointed out by the learned Standing Counsel for the respondent that the petitioner, even before filing the Writ Petition, challenged the impugned order of assessment before the Appellate Authority and therefore, the Writ Petition is not maintainable, inasmuch as it is impermissible for an assessee to avail parallel remedies.

3. The learned counsel for the petitioner made an attempt to suggest that since it is an aspect relating to jurisdiction, it is open to the petitioner to file a Writ Petition.

4. I am afraid that the above submission cannot be countenanced for the reason that having approached the Appellate Authority, it may not be open for the petitioner now to seek any remedy before this Court, for it would then mean that the petitioner is permitted to avail parallel remedies. It has been consistently held that one cannot be permitted to pursue parallel remedies (riding two horses at the same time) and such practice is frowned upon by the Apex Court consistently.[1]

5. In view thereof, the Writ Petition stands dismissed. It is open to the petitioner to continue to pursue the appeal, which has already been filed. It is made clear that this Court has not expressed any opinion with regard to the merits of the case. It is open to the petitioner to put forth all his objections including the jurisdiction to re-open assessment. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

28.08.2024

Index : Yes / No
Internet : Yes/ No
Lm

1. Jai Singh v. Union of India, (1977) 1 SCC 1; Orissa Power Transmission Corpn.Ltd. v. Asian School of Business Management Trust, (2013) 8 SCC 738

To
Assistant Commissioner of Income Tax,
Circle – 1,
Arunachalam Street,
Sekkalai Road,
Karaikudi.

MOHAMMED SHAFFIQ, J.

Lm

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