BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.06.2024**

CORAM:

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

W.P.(MD) No.11635 of 2024
and
W.M.P.(MD) Nos.10364 and 10365 of 2024

Palaniappan Annamalai ... Petitioner

/vs./

The Assessment Unit,
Income Tax Department,
Ministry of Finance,
Delhi. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records of the Respondent in DIN and Order No. ITBA/AST/S/143(3)/2023-24/ 1063340148(1) relating to the order passed under sec.143(3) read with section 144B of the Income Tax Act, 1961 for the assessment year 2022-23 in PAN . AFRPA3539A dated 25.3.2024 and quash the same.

For Petitioner : Mr.T.Vasudevan
For Respondent : Mr.N.Dilip Kumar
Senior Standing Counsel

ORDER

Mr.N.Dilip Kumar, learned Senior Standing Counsel takes notice for the respondent.

2.Aggrieved by the impugned order, dated 25.03.2024 passed by the respondent, the petitioner is before this Court, although the petitioner has a statutory appeal against the impugned order before the Appellate Commissioner under Section 246A of the Income Tax Act, 1961.

3.The petitioner submits that the petitioner was issued with notices under Section 143(2) and thereafter under Section 142(1) of the Income Tax Act, 1961 and had partly complied with the same by uploading the information on 04.12.2023 and undertook to furnish the balance details within a period of 20 days.

4.It is the further case of the petitioner that thereafter the petitioner did not receive any communication from the respondent setting time for uploading the information.

5.The further case of the petitioner is that the petitioner was issued with a show cause notice on 14.03.2024 by giving time up to 16.03.2024 by 13.41 hours. It is submitted that the petitioner also responded to the same on 16.03.2024 by filing 18 replies and on 18.03.2024 by filing 4 other replies.

6.It is submitted that without considering the same, the impugned order has been passed. It is submitted that the impugned order has been passed in gross violation of principles of natural justice and therefore, it is liable to be quashed.

7.The Writ Petition is opposed by the learned Senior Standing Counsel for the respondent on the ground that after Section 143(2) intimation was issued to the petitioner on 02.06.2023 and thereafter, notice under Section 142(1) of the Income Tax Act, 1961 was issued on 22.11.2023 and sufficient time was given to the petitioner to comply with the same.

8.Despite the same, the petitioner failed to comply with the information sought for vide notice dated 22.11.2023. Since the petitioner failed to furnish the detailed as called for, the respondent was constrained to issue the show cause notice dated 14.03.2024 by giving time up to 16.03.2024.

9.It is further submitted that the petitioner partly complied with the same on 16.03.2024. It is submitted that the assessment had to be completed in a time bound manner by 31.03.2024 within the stipulated time under Section 153A of the Income Tax Act, 1961, as the dispute pertains to the assessment year 2022-23. Hence, it is submitted that the Department cannot be found fault with.

10.By way of rejoinder, the learned counsel for the petitioner would submit that the documents that were uploaded by the petitioner on 16.03.2023 are voluminous and ought to have been considered. He had shown reams of the documents before this Court.

11.I have considered the submissions of the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondent.

12.The respondent cannot be found fault for passing the impugned order on 25.03.2024 ie., 6 days prior to the expiry of the period of limitation prescribed under 4th proviso to Section 153(1) of the Income Tax Act, 1961, as the assessment has to be completed in a time bound manner on or before 31.03.2024. The limitation prescribed has worked against the petitioner, although the petitioner has responded to the show cause notice dated 14.03.2024 on 16.03.2024 by uploading the reply and the documents.

13.A reading of the order indicates that the reply of the petitioner has not been considered. That apart, the petitioner appears to have uploaded further information on 18.03.2024, which only has not been considered in the impugned order.

14.Considering the same, the impugned order is set aside and the case is remitted back to the respondent to pass a fresh order on merits and in accordance with law as expeditiously as possible, preferably within a period of 6 months from the date of receipt of a copy of this order.

15.The impugned order, which stands quashed, shall be treated as addendum/corrigendum to the show cause notice dated 14.03.2024 issued to the petitioner earlier. The petitioner shall reply to the same within a period of 30 days from the date of receipt of a copy of this order or within such time as may be fixed by the respondent together with such other information, which the petitioner desires to rely.

16.The Writ Petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
mm

04.06.2024

C.SARAVANAN, J.

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