BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2024

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) Nos.16954 & 16955 of 2024
and
W.M.P.(MD) Nos.14614 to 14617 of 2024

Sri Ramajayam Agencies
Rep. by its Partner
T.Pandiyaramanarayanan,
Main Road, Pandaravadai,
Papanasam Taluk,
Thanjavur District – 614204. ... Petitioner in both W.Ps.

Vs.

1.The National Faceless Assessment Unit,
Income Tax Department,
Ministry of Finance,
Government of India,
New Delhi.

2.The Income Tax Officer,
Ward 1(2),
Thanjavur. ... Respondents in both W.Ps.

Common Prayer: Writ Petitions filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari to call for the records of the first respondent in PAN:ABQFS7726Q [DIN No.ITBA/AST/S/147/2023-24/

1061008084(1)] dated 15.02.2024 and PAN:ABQFS7726Q [DIN No.ITBA/AST/S/147/2023-24/1061512170(1)] dated 25.02.2024 and to quash the same as illegal, invalid and against the principles of natural justice.

For Petitioner
in both W.Ps. : Mr.A.Chandra Sekaran

For Respondents
in both W.Ps. : Mr.N.Dilip Kumar
Senior Standing Counsel

COMMON ORDER

By this common order, both these Writ Petitions are being disposed of, at the time of admission, after hearing the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents.

2. In these Writ Petitions, the petitioner has challenged the impugned Assessment Orders dated 15.02.2024 and 25.02.2024 for the Assessment Years 2019-2020 and 2018-2019 respectively. Pursuant to the aforesaid impugned orders, the tax liability of the petitioner comes to **Rs.11,62,97,403/-** for Assessment Year 2018-2019 and **Rs.14,22,82,995/-** for Assessment Year 2019-2020.

3. It is the case of the petitioner that M/s.Sri Ramajayam Agencies, the petitioner herein, was originally constituted as a partnership firm consisting of the deponent's father Thirusangu, the deponent T.Pandiyaramanaryanan and the deponent's brother T.Venkatesan. It is further case of the petitioner that the said partnership firm was assessed under the Income Tax Act, 1961 and had obtained an Identification in PAN No.ABQFS7726Q.

4. It is further case of the petitioner that the said partnership firm ceased to exist and the deponent herein took over the business of the partnership firm as the sole proprietor w.e.f. 01.04.2014. To that effect, the learned counsel for the petitioner has produced a copy of the Deed of Dissolution of Partnership drawn on a stamp paper dated 22.02.2011. It is further case of the petitioner that the deponent has been thereafter carrying on the business in the individual capacity as the sole proprietor of the said M/s.Sri Ramajayam Agencies and filed regular returns under PAN No.BEBPP9808R.

5. It is submitted that the deponent was unaware of the notices that were issued to the petitioner for the respective Assessment years under

Section 148A(b) of the Income Tax Act, 1961 and consequential orders passed under Section 148A(d) of the Income Tax Act, 1961 for the respective Assessment Orders. It is submitted that huge tax liability has been mulcted on the petitioner as the deponent has failed to participate in the proceedings as he was unaware of the notices issued under Section 148A(b) of the Income Tax Act, 1961 and consequential orders passed under Section 148A(d) of the Income Tax Act, 1961 for the respective Assessment Years.

6. It is submitted that the petitioner, a proprietary concern, is engaged in the sale of petroleum products and there are huge cash transactions and deposits in its name. These are the amounts which are paid back to the Petroleum Company and the deponent is having thin margin and tax is assessed in the individual name.

7. It is submitted that the impugned orders determining the above-mentioned tax are unjustified and unwarranted and that one opportunity may be given to the petitioner to explain the case as the mistake has arisen only on account of the fact that the petitioner has not surrendered the PAN after the deponent took over the business in the individual capacity.

8. On the other hand, the learned Senior Standing Counsel for the respondents would submit that the notices were not only sent through the Email but also to the postal address where the deponent carries on business and files returns using the same address. It is therefore submitted that there is no justification in the challenge to the impugned orders. It is submitted that the petitioner should file statutory appeal against the impugned orders. That apart, it is submitted that deponent has declared a meager taxable income for the respective Assessment Years as follows:-

Sl. No.	***W.P.(MD) No.***	***Assessment Year***	***Taxable Income***
1	W.P.(MD) No.16954/ 2024	2019-2020	Rs.8,28,828/-
2	W.P.(MD) No.16955/ 2024	2018-2019	Rs.7,39,329/-

9. The learned Senior Standing Counsel for the petitioner would therefore pray for dismissal of these Writ Petitions.

10. By way of rejoinder, the learned counsel for the petitioner would submit that old E-mail ID was inaccessible and therefore, the

notices issued to the petitioner for the respective Assessment Years went unnoticed which have culminated in the impugned Assessment Orders. It is further submitted that one Notice under Section 148A(b) of the Income Tax Act, 1961 was received through postal mail. However, it was construed as the notice served on the proprietary concern, for which assessments had already been completed.

11. Having considered the submissions made by the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents, I am of the view, the petitioner deserves a fair chance to address its grievances regarding the reopening of the assessment under Section 147 read with Section 144B of the Income Tax Act, 1961, for the partnership firm, as it has purportedly closed down its business w.e.f. 01.04.2014.

12. The petitioner will have to establish whether the huge deposits made in the petitioner's bank account have been brought into the books of accounts under the name of the deponent. This would require a detailed consideration.

13. However, considering the fact that the deponent has been negligent in not responding to the notices issued under Section 148A(b) of the Income Tax Act, 1961 and thereafter to the orders passed under Section 148A(d) of the Income Tax Act, 1961, I am inclined to quash the impugned Assessment Orders and remit the case back to the first respondent to pass fresh orders subject to the certain terms:-

i. Considering the fact that petitioner was also assessed with the tax, I direct the petitioner to pay Rs.25,00,000/- each for the respective Assessment Years, and file a reply the notices issued under Section 148A(b) of the Income Tax Act, 1961, within a period of 4 months from the date of receipt of a copy of this order.

ii. The first respondent shall thereafter proceed to pass final orders on merits and in accordance with law, as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order.

iii. The petitioner shall co-operate with the first respondent and shall produce the records if they are called for by the first respondent.

iv. It is made clear that in case the petitioner fails to co-operate with the first respondent, the first respondent is at liberty to proceed against the petitioner.

v. It is made clear that if the petitioner fails to deposit the aforesaid amount and file reply within such time, the concession granted by this Court in this order shall stand revoked *sine die* without further reference to this Court and it shall be deemed that these Writ Petitions were dismissed *in limine.*

14. In the result, these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

24.07.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order

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Copy To:

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Income Tax Department,
Ministry of Finance,
Government of India,
New Delhi.

2.The Income Tax Officer,
Ward 1(2), Thanjavur.

C.SARAVANAN, J.

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