BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2024

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)Nos.24167 and 26845 of 2024
and
W.M.P.(MD)Nos.20437, 20441, 22753 and 22755 of 2024

W.P.(MD).No.24167 of 2024:

Praveenkumar ...Petitioner

Vs

1.The Principal Commissioner,
Income Tax Department,
May Building, Williams Road,
Condonment,
Trichy.

2.The Deputy Commissioner,
Income Tax Department,
May Building, Williams Road,
Cantonment,
Trichy District.

3.The Assistant Commissioner,
Income Tax Department,
May Building, Williams Road,
Cantonment,
Trichy District.

4.The Income Tax Officer,
Income Tax Department,
Ward 2(1),
May Building, Williams Road,
Cantonment,
Trichy District. ... Respondents

<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 pertaining to the Show Cause Notice dated 17.03.2024 in ITBA/PNL/S/271AAC(1)/2023-24/1062786399(1) and subsequent Show cause notice dated 11.06.2024 in ITBA/COM/F/17/2024-25/1065548265(1) impugned order, passed by the fourth respondent and quash the same as paid and illegal on the basis of the documents submitted by the petitioner along with material evidence available.

For Petitioner : Mr.B.Charmurugan

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

<u>W.P.(MD).No.24167 of 2024:</u>

Praveenkumar ...Petitioner

Vs

1.The Principal Commissioner,
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May Building, Williams Road,
Cantonment,
Trichy District.

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Income Tax Department,
May Building, Williams Road,
Cantonment,
Trichy District.

4.The Income Tax Officer,
Income Tax Department,
Ward 2(1),
May Building, Williams Road,
Cantonment,
Trichy District.

5.The Branch Manager,
State Bank of India,
Thanjavur Branch,
Thanjavur District. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorari, calling for the records pertaining to the Assessment Order dated 17.03.2024 in ITBA/AST/S/144/2023-24/1062786285(1) impugned order, passed by the fourth Respondent and quash the same as paid and illegal on the basis of the documents submitted by the petitioner along with material evidence available.

For Petitioner : Mr.B.Charmurugan

For R-1 to R-4 : Mr.N.Dilip Kumar
Senior Standing Counsel

COMMON O R D E R

Heard Mr.B.Charmurugan, learned counsel for the petitioner and Mr.N.Dilip Kumar, learned Senior Standing Counsel for the respondents.

2. These Writ Petitions have been filed challenging the order of assessment primarily on the ground that no notice was sent to the petitioner and consequential notice, calling upon the petitioner as to why penalty should not be imposed.

3. The learned counsel for the petitioner would contend that before passing the assessment order, the petitioner was not afforded any opportunity, as no notice was served upon him. He would further submit that the impugned order fails to provide reasons for passing the order of assessment. Therefore, he would submit that the order of assessment would have to be set aside for violating the principles of natural justice.

4. On the other hand, the learned Senior Standing Counsel appearing for respondents 1 to 4 drew the attention of this Court to the impugned order and submitted that a notice dated 18.09.2023 was sent to the petitioner through speed post. Moreover, the petitioner has not denied receiving this notice, even in the affidavit filed in support of the Writ Petitions. Therefore, he prays this Court to dismiss the Writ Petition.

5. I have carefully considered the submissions made by both sides and perused the materials available on record.

6. Although the learned counsel for the petitioner submitted that the notice was not served, a perusal of the impugned order reveals that a notice dated 18.09.2023 was indeed sent to the petitioner through speed post. The petitioner has not made any averment in his affidavit stating that he did not receive the notice, but he has mentioned the same in his affidavit regarding the said notice.

7. Hence, I am prima facie satisfied that the petitioner was provided an opportunity to respond to the proceedings initiated by the respondents for passing the assessment order. No other grounds have been made out in the writ petitions, and therefore, I find no merit in the writ petitions.

8. Accordingly, the Writ Petitions stand dismissed, with liberty to the petitioner to seek an alternate remedy by filing an appeal as available under law. If such an appeal is filed, the appellate authority shall be liberal in condoning the delay in filing the appeal. The respondents are at liberty to proceed with the penalty proceedings; however, they shall not take any coercive steps pursuant to any decision made therein against the assessee until the disposal of the appeal to be filed by the petitioner. No costs. Consequently, connected miscellaneous petitions are closed.

14.11.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To:

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Cantonment,
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5.The Branch Manager,
State Bank of India,
Thanjavur Branch,
Thanjavur District.

K.KUMARESH BABU, J.

Nsr

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