IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.02.2025

CORAM

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.4823 of 2025
and W.M.P.No5341 of 2025

International Institute of Bio Technology
and Toxcicology,
Rep. by its Director,
P.K.Sarangi, S/o.Sankhali Sarangi,
Aged 48 years,
BDO Office Road, Padappai – 601 301,
Kancheepuram (Dist.,) Tamil Nadu .. Petitioner

Vs.

The Assistant Commissioner of Income Tax (Exemptions)
Chennai Circle, Room No.303, 3rd Floor,
Annex Building, Aayakar Bhavan,
121 Mahatma Gandhi Road,
Chennai – 600 034. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorari, calling for the records in PAN:AAATF0061E/18-19 dated 06.01.2025 order u/s. 143(3) r.w.s 250 of the IT Act, on the file of the respondent relating to A.Y 2018-19 and quash the same.

For Petitioner : Mr.Baskar G

For Respondent : Mr.V.Mahalingam,
Senior Standing Counsel

ORDER

This Writ Petition has been filed by the petitioner seeking to call for the records in PAN:AAATF0061E/18-19 dated 06.01.2025 order u/s. 143(3) r.w.s 250 of the Income Tax Act, on the file of the respondent relating to A.Y 2018-19 and quash the same.

2.Learned counsel for the petitioner would submit that the petitioner preferred an appeal against the assessment order dated 04.03.2021, before the Commissioner of Income Tax (Appeals), claiming that the petitioner is entitled to claim exemption under Section 10(21) of the Income Tax Act, 1961 (hereinafter referred as 'the IT Act'). The Commissioner of Income Tax (Appeals) vide order dated 30.11.2023, held that the petitioner is entitled to claim exemption under Section 10(21) of the IT Act. Accordingly, the respondent gave effect to the order of the Commissioner of the Income Tax (Appeals) by an order dated 25.10.2024. While so, the respondent passed an order dated 06.01.2025, under Section

154 r.w.s 143(3) of the IT Act, raising a demand of Rs.2,97,03,595/- stating that the an income of Rs.4,23,10,152/- was allowed to exempt mistakenly in the order dated 25.10.2024. He would further submit that the respondent supposed to issue notice under Section 154 (3) of the IT Act, before passing any order under Section 154 of the IT Act and hence, prayed to set aside the impugned order.

3.Mr.V.Mahalingam, learned Senior Standing Counsel appearing for the respondent after taking appropriate instruction has fairly submitted that before passing the impugned order dated 06.01.2025, no notice under Section 154(3) of the IT Act was issued to the petitioner.

4.Heard the learned counsel for the petitioner as well as the learned Senior Standing Counsel appearing for the respondent and perused the materials available on record.

5.Considering the submission made by the learned counsel for the petitioner and the learned Senior Standing Counsel appearing for the respondent, it is clear that no notice was issued before passing order of rectification under Section 154 of the IT Act. It is mandatory to serve the notice before passing such order. Therefore, admittedly there is violation of principles of natural justice in passing the impugned order dated 06.01.2025 and hence, the same is liable to be set aside. Accordingly, the impugned order dated 06.01.2025 is set aside with liberty to the respondent to initiate fresh proceedings in accordance with law, if necessary.

6.With the above observation, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

24.02.2025

rst

Index : Yes/No
Neutral Citation : Yes/No

To:

The Assistant Commissioner of Income Tax (Exemptions)
Chennai Circle, Room No.303, 3rd Floor,
Annex Building, Aayakar Bhavan,
121 Mahatma Gandhi Road,
Chennai – 600 034.

KRISHNAN RAMASAMY, J.

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