IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.03.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.7610 of 2025
& W.M.P.Nos.8540 & 8541 of 2025

Thangaraju

... Petitioner

Vs.

The Chief Commissioner of Income Tax,
Plot No.63, Race Course Road,
Coimbatore 641 018.

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the respondent relating to the impugned ordr No.ITBA/AST/F147(SCN)/ 2024-25/1073482478(1) dated 19.02.2025 for the assessment year 2017-18 and quash the same.

For Petitioner	:	Mr.A.Sundaravadhanam
For Respondent	:	Dr.B.Ramaswamy, Senior Standing counsel

ORDER

This writ petition has been filed challenging the impugned notice dated 19.02.2025 issued by the respondent for the assessment year 2017-2018.

2. The learned counsel for the petitioner would submit that in this case, on 25.04.2016, the sale deed was executed by the petitioner in his capacity as Power of Attorney. According to the petitioner, the property was sold for a sum of Rs.55,80,000/- and as requested by the principal, the said amount was withdrawn from the bank account and paid to the principal by way of cash on two different dates, viz., 28.04.2016 & 30.04.2016. However, the respondent had considered the said amount as 'income' of the petitioner and issued four show cause notices to the petitioner.

3. Further, he would contend that in this case, the petitioner had only acted as a Power of Attorney and he is not the owner of the property. In such case, if the respondent is intend to issue any notice,

with regard to the withdrawal of aforesaid amount, the same should have been issued to the Principal, who is the absolute owner of the property. Hence, he would submit that the impugned notice was issued without any basis and therefore, he requests this Court to pass appropriate orders by quashing the said impugned notice.

4. On the other hand, the learned Senior Standing counsel appearing for the respondent would submit that according to the petitioner, he had only acted as a Power of Attorney and paid the sale consideration of Rs.55,80,000/- to the Principal by way of cash. In this regard, a receipt was also produced by the petitioner, however, the truthfulness of the said receipt is not known.

5. Further, he would submit that for withdrawal of such huge amount, the petitioner is supposed to have filed their returns. Due to non-filing of returns, the entire withdrawal was considered as income and the proceedings were initiated against the petitioner. In this regard, a show cause notice dated 07.01.2025 and the reminder notices dated

16.01.2025 & 22.01.2025 were issued by the respondent. After the receipt of said notices, the petitioner sought time for filing their reply vide communication dated 17.01.2025. Accordingly, time was granted and the impugned notice dated 19.02.2025 was issued by the respondent. Hence, he would submit that though the respondent had provided sufficient time to the petitioner for filing their reply, the petitioner had failed to avail the said opportunity. Therefore, he request this Court to dismiss the present petition with cost.

6. Heard the learned counsel for the petitioner and the learned Senior Standing counsel appearing for the respondent and also perused the materials available on record.

7. In this case, the petitioner had sold a property, on 25.04.2016, in his capacity as Power of Attorney, for which, the sale consideration of Rs.55,80,000/- was received by him. Thereafter, the entire sale consideration was withdrawn by the petitioner and the same was paid to the Principal by way of cash.

8. However, as rightly contended by the learned Senior Standing counsel, since the transaction involved in this case is a sum of Rs.55,80,000/-, the petitioner, being a practising advocate, is supposed to have filed his returns for withdrawal of such huge amount. When no returns were filed for withdrawal of any amount, certainly the respondent will consider the said amount as income of the petitioner. Accordingly, the proceedings were initiated.

9. With regard to the same, a show cause notice dated 07.01.2025 and the reminder notices dated 16.01.2025 & 22.01.2025 were issued by the respondent. Subsequently, the said show cause notice dated 07.01.2025 was withdrawn by the respondent. Thereafter, on 19.02.2025, another show cause notice was issued and the same was challenged in this petition.

10. Normally, when a show cause notice was issued by the respondent, the petitioner is supposed to have explained their case by

way of filing their reply for the said show cause notice. Thereafter, if they are aggrieved over the assessment order, the same shall be challenged either before the Appellate Authority or before this Court. When such being the case, this Court is of the view that the present petition has been filed pre-mature manner.

11. Therefore, for the reasons stated above, this Court is not inclined to entertain the present petition. Accordingly, this writ petition is dismissed by granting liberty to the petitioner to file their reply for the show cause notice dated 19.02.2025 within a period of 30 days from the date of receipt of copy of this order. No cost. Consequently, the connected miscellaneous petitions are also closed.

24.03.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa

To

The Chief Commissioner of Income Tax,
Plot No.63, Race Course Road,
Coimbatore 641 018.

KRISHNAN RAMASAMY.J.,

nsa

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