IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.06.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.8294 of 2025
and
W.M.P.Nos.9299, 9300 & 9301 of 2025

Mani Ramakrishnan ...Petitioner

Vs.

INCOME TAX OFFICER
TDS WARD 2(3) CHENNAI,
NO.120, BSNL BUILDING
GREAMS ROAD, CHENNAI
TAMILNADU-600 006. ...Respondent

Prayer :-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records contained in Notice dated 20.01.2025 issued by the respondent bearing DIN :02012025/00707/CD for TAN CHEM10722F and consequential notice bearing DIN/CHE/WT/152/3/27012025/00074 dated 27.01.2025 and notice DIN/CHE/WT/152/3/27012025/00077 dated 27.01.2025 issued by the respondent under Section 226(3) of the Income Tax Act 1961 and to quash the same as arbitrary illegal unjust and consequently direct the respondent to lift the lien on the bank accounts belonging to the Petitioner.

For Petitioner : Mr.Suhrith Parthasarathy

For Respondent : Dr.B.Ramaswamy,
Senior Standing Counsel

Order

The challenge in this Writ Petition is to the order passed by the respondent dated 20.01.2025 and consequential notices dated 27.01.2025 and notice dated 27.01.2025 issued by the respondent under Section 226(3) of the Income Tax Act 1961 and to quash the same and consequently, to direct the respondent to lift the lien on the bank accounts belonging to the Petitioner.

2. The learned counsel appearing for the petitioner would submit that the petitioner filed Return of Income (ROI) for FYs 2011-12 and 2012-13 on 29.10.2012 and 19.11.2012 respectively, paying entire tax, however, the petitioner received a notice notice dated 26.06.2023 stating that there was an outstanding demand and the petitioner was called upon to verify the said demand from the TRACES account by downloading 'justification report', and as per the justification report, according to the respondent-

Department, during the FY 2011-12 and 2012-13, there was a TDS shortfall of Rs.27297137/- and Rs.488679/- respectively; since the said shortfall was on account of TDS in respect of payments due to their vendors, (viz., Dasa Infra Systems Pvt. Express Engineering and Hindustan Engineering Ltd.) having been deducted at 1% instead of 2%, which was neither wilful nor wanton but due to inadvertence on the petitioner's part, however, the TDS was also deposited in a timely manner, as reflected in Form 26 AS of the said vendors; that the vendors have duly filed their return of income and paid income tax and their return of income has been duly accepted by the respondent-Department, there was no revenue loss caused on account of the short deduction of TDS and also levy interest on the same and the petitioner would have explained all these facts along with relevant documents before the respondent, had the petitioner been provided with an opportunity of personal hearing, however, in the present case, though the petitioner was called to verify the said demand from the TRACES account by downloading Justification Report and the petitioner also provided explanation, no order has been passed either accepting or rejecting the said explanation/reply, however, the respondent has directly issued a demand notice on 20.01.2025 stating that FY 2011-12 and FY 2012-13, there was an outstanding demand of Rs.4,34,790/- and Rs.1458170/- respectively, which is wholly arbitrary. Therefore, the learned counsel prays that the petitioner may be provided with an opportunity to putforth their case before the respondent with regard to the remittance of TDS based on which, the appropriate orders may be passed by the respondent.

3. Dr.B.Ramaswamy, learned Senior Standing Counsel for respondent though made a formal objection to the contention putforth by the learned counsel for the petitioner, however, fairly submitted that since the petitioner seeks for one more opportunity to putforth their case before the respondent with regard to the remittance of TDS, and if this Court is inclined to grant such opportunity, and any direction is issued in that regard, the same would be complied with by the respondent.

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

5. Initially, the respondent issued a notice, to which, the petitioner filed their reply, however, no detailed order was passed with regard to how they have arrived at the figure, as shown in the impugned notice. It is the grievance of the petitioner that though the petitioner furnished a detailed explanation with regard to remittance of tax by them and the shortfall in TDS was on account of inadvertence on the part of the petitioner in having deducted TDS at 1% instead of 2% TDS in respect of payments due to their vendors, (viz., Dasa Infra Systems Pvt. Express Engineering and Hindustan Engineering Ltd.) which was neither wilful nor wanton, however, the TDS was also deposited in a timely manner, as reflected in Form 26 AS of the said vendors; that the vendors have duly filed their return of income and paid income tax and their return of income have also been duly accepted by the respondent-Department, there was no revenue loss caused on account of the short deduction of TDS, the respondent, without considering the same, and without even providing an opportunity of hearing to the petitioner, passed the impugned order. Therefore, this Court, in the interest of justice, is inclined to give an opportunity to the petitioner to putforth their contention before the respondent by setting aside the impugned order.

6. According, this Court pass the following orders/directions:-

i) The impugned order/notice is set aside.

ii) The matter is remanded to the respondent for fresh consideration.

iii) The respondent is directed to take into consideration of the reply filed by the petitioner and provide an opportunity of personal hearing to the petitioner, and in case, finds any revenue loss is caused, the same shall be quantified and thereafter, shall pass appropriate orders in accordance with law.

iv) In the event, the petitioner intends to file any additional reply along with documents, the petitioner is at liberty to file the same, which shall also be taken into account by the respondent before deciding the issue.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected miscellaneous petitions are closed.

24.06.2025

sd
Index : yes/no
Neutral Citation : yes/no

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Krishnan Ramasamy,J.,

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