IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.03.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.Nos.9905 of 2025
and
W.M.P.No.11123 of 2025

1. Dr.V.Ganesan
2. Dr.M.Radhakrishan ...Petitioners

Vs.

1. The Principal Director of Income Tax
 Aayakar Kaaryaalay, 121, M.G.Road, Nungambakkam,
 Chennai – 600 034, T.N. India.

2. The Chief Commissioner of Income Tax,
 Aayakar Kaaryaalay, 121, M.G.Road, Nungambakkam,
 Chennai – 600 034, T.N. India. ...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the first respondent to consider the representation made by the petitioners dated 02.08.2024 and received by the first respondent on 08.08.2024.

For Petitioners : M/s.Jannavi Raghavan

For Respondents : Mr.A.N.R.Jayaprathap
Junior Standing Counsel

Order

Heard M/s.Jannavi Raghavan learned counsel appearing for the petitioner and Mr.A.N.R.Jayaprathap, learned Junior Standing Counsel who takes notice on behalf of the respondents. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. This Petition is filed seeking for issuance of a Writ of Mandamus directing the first respondent to consider the representation made by the petitioners dated 02.08.2024.

3. The learned counsel for the petitioner would submit that the petitioners are Doctors and members of the Indian Medical Association-Tamil Nadu State Branch (hereinafter, referred to as 'the IMA-TNSB Association'; that certain employees in connivance with the office bearers of the said Association, who in turn with the aid of some other third parties have misappropriated amount to the tune of several crores over a period of eleven years from 2007-2018, and all these facts have also been borne out by the Interim Forensic Audit Report issued by a Firm of Chartered Accountants and the report of a fact-finding Committee headed by an independent Doctor; that all these reports unearthed misappropriation of over Rs.8 crores and that the funds that have been siphoned off from the account of the said Association, belongs to member doctors, who have in good faith subscribed to the various schemes floated by the said Association, and if these were allowed to continue, in this manner, not only would the hard-earned money of the members of the Association would be relished/realized by the beneficiaries, who are members of the Association but the treasury also stands to lose a large amount of money on account of tax evasion, and in this regard, though the petitioners made a representation to the first respondent, the same has not evoked any response, which necessitated the petitioner to approach this Court by way of present Writ Petition seeking for the aforesaid relief.

4. The learned Junior Standing Counsel for the respondent would submit that pursuant to certain irregularities being noticed by the then Secretary of the IMA-TNSB Association, a criminal complaint was lodged, which was taken cognizance by the learned Judicial Magistration No.1, Tambaram; that during investigation and enquiry, it came to light that one Mrs.Sumathi in connivance with the Office Bearers had siphoned/swindled the funds of the Association and thereby, committed cheating, forgery, criminal misappropriation and falsification of accounts; that investigation is going on, and in the interregnum, the petitioners had made a representation to the first respondent to investigate the financial activities and source of income of IMA-TNSB. The learned Junior Standing Counsel would further submit it is a case of fraud committed by the employees of the Association, where, the respondent-Income Tax Department cannot poke their nose, that apart, the petitioners, except making bald allegations, they have not furnished any exact proof or materials evidence in support of their contentions, and in terms of provisions of the Income Tax Act, unless and until, any materials evidence, the Income Tax Department will not have any role to play in regard to any complaint/information received by them and hence, he prayed for dismissal of the Writ Petition.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. The petitioners herein are Doctors and members of the Indian Medical Association-Tamil Nadu State Branch (hereinafter, referred to as 'the IMA-TNSB Association;. It appears that certain employees of the said Association (who are Doctors, Staff and Office Bearers, in connivance with some third parties have misappropriated funds of the Association approximately to a sum of Rs.8 crores and that the funds that have been siphoned off from the account of the said Association, belongs to member Doctors, who have in good faith subscribed to the various schemes floated by the said Association. Therefore, the petitioners, apprehending that if such fraudulent acts were allowed to continue, the hard-earned money of the members of the Association would get loosed, made a representation to the first respondent setting out such facts. Since the said representation has not evoked any response, the petitioner has filed the present Writ Petition seeking for the aforesaid relief.

6.1 However, this Court is of the view that, as regards such alleged act of misappropriation/embezzlement/commission of fraud, only criminal complaint would lie. Further, from the aversion made by the learned Junior Standing Counsel for the respondents, it is inferred that already a criminal complaint was filed and during investigation, it was unearthed that one Mrs.Sumathi in connivance with the Office Bearers had siphoned/swindled the funds of the Association and thereby, committed cheating, forgery, criminal misappropriation and falsification of accounts and that it is a clear case of fraud committed by the employees of the Association, where, the respondent-Income Tax Department can have no role to play.

6.2 De hors the above, as rightly pointed out by the learned Standing Counsel for the respondents, the petitioners, except, making bald allegations that certain employees of the Association have committed embezzlement, and evading from tax, no where, in their representation have furnished the exact details/proofs as regards such alleged evasion of tax and in the absence of any material evidence produced by the petitioners, the respondent-Income Tax Department cannot poke their nose and meddle into the issue, as, in terms of provisions of the Income Tax Act, unless and until, any materials evidence is produced with regard to such alleged allegation, the Income Tax Department will not eqnuire into the merits of any complaint/information/representation received by them.

6.3 In the light of the above discussions and observations, I do not find any merit in the Writ Petition.

7. Accordingly, the Writ Petition is dismissed as being devoid of merits. No costs. Consequently, connected 2-B Petition is ordered.

24.03.2025

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Index : yes/no
Neutral Citation : yes/no

To

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Krishnan Ramasamy,J.,

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