IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.02.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.9525 of 2024
and W.M.P.Nos.10530 & 10532 of 2024

Sri Swamy Nellaiappar Gandhimathi Ambal Temple,
Rep by its Executive Officer Shri. A.Ayyarsivamani,
East Car Street, Tirunelveli Town,
Tirunelveli 627 006

... Petitioner

Vs.

1.Commissioner of Income Tax (Exemptions),
Aayakar Bhawan Annexe Building,
121, Mahatma Gandhi Road,
Nungambakkam, Chennai 600 034.

2.Income Tax Officer,
Exemptions Ward, Tirunelveli.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in ITBA/COM/F/17/2023-24/1062591670(1) and quash the order dated 14.03.2024 passed therein and further direct the respondents herein to grant exemption to the petitioner u/s.10(23C) of the Income Tax Act, 1961, for the Assessment Year 2013-14.

For Petitioner	:	Ms.Hema Muralikrishnan
For Respondent	:	Mr.V.Mahalingam, Senior Standing counsel, assisted by Ms.S.Premalatha, Junior Standing counsel

ORDER

The challenge in this writ petition is against the impugned order dated 14.03.2024 passed by the respondent under Section 264 of the Income Tax Act, 1961 (hereinafter called as "IT Act").

2. The learned counsel for the petitioner would submit that in this case, there was a change in the name of the petitioner-Temple and hence, they were allotted a new PAN Number. Under these circumstances, the notice, with regard to the payment of tax, has been uploaded by the respondent to the old PAN number. Being unaware of the said notices, the petitioner was not in a position to file their reply. Hence, an *ex parte*

assessment order dated 29.03.2022 came to be passed by the respondent, whereby they had confirmed the demand against the petitioner.

3. Further, he would submit that being a Temple, the petitioner is exempted from the payment of tax by virtue of Notification No.SO1400 dated 31.03.1978. Therefore, a revision petition has been filed by the petitioner against the said assessment order. However, the petitioner was unable to participate in the proceedings of the revision petition, due to which, the said revision petition was also dismissed by the respondent vide *ex parte* impugned order dated 14.03.2024. Hence, he requests this Court to grant an opportunity to produce the aforesaid notification and present their case before the respondents.

4. In reply, the learned Senior Standing counsel appearing for the respondents would submit that the petitioner has not participated in the revision proceedings. Under these circumstances, being unaware of the Notification No.SO1400 dated 31.03.1978, the impugned order came to be passed by the respondents. Hence, he requests this Court to set aside

the impugned order and remand this matter back to the respondents for fresh consideration.

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

6. In this case, there is no dispute on the aspect that due to the name change, the petitioner had obtained new PAN Number. However, the notices were uploaded by the respondent to the Old PAN Number instead of new PAN Number. Since the petitioner had no occasion to verify the old PAN Number and being unaware of the show cause notice issued by the respondent, they were unable to file their reply in time. Under these circumstances, the assessment order came to be passed by the respondent, wherein they had demanded for payment of tax from the petitioner.

7. As per the Notification No.SO1400 dated 31.03.1978, the petitioner, being a Temple, is exempted from payment of tax. Hence, a revision petition has been filed by the petitioner. However, they had not participated in the proceedings pertaining to the said revision petition. Thus, the impugned order came to be passed by the respondent.

8. Though the fault is on the part of the petitioner, the fact remains that the petitioner is entitled for exemption by virtue of Notification No.SO1400 dated 31.03.1978 and the same cannot be ignored. However, without giving any intelligence for their own notification, the assessment order as well as the impugned order came to be passed by the respondent. In such view of the matter, this Court is inclined to grant an opportunity to the petitioner to present their case before the respondents by setting aside both the assessment order and the revision order passed by the respondent on terms.

9. Accordingly, this Court passes the following order:-

(i) The assessment order dated 29.03.2022 and the revision order dated 14.03.2024 are set aside and the matter is remanded to the 1st respondent for fresh consideration on condition that the petitioner shall pay a sum of Rs.1,000/- to The Principal Government Naturopathy Medical College and Hospital, Account No.7883022723, IFSC Code: IDIB000M157, within a period of four weeks from today (05.02.2025) and the setting aside of the assessment order and the revision order will take effect from the date of payment of the said amounts.

(ii) The petitioner shall file their reply/objection along with the Notification No.SO1400 dated 31.03.1978 and other required documents, if any, within a period of three weeks from the date of receipt of copy of this order.

(iii) On filing of such reply/objection by the petitioner, the 1st respondent shall consider the same and issue a 14 days clear notice, by fixing the date of personal hearing, to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

8. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

05.02.2025

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

To

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2.Income Tax Officer,
Exemptions Ward, Tirunelveli.

KRISHNAN RAMASAMY.J.,

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