IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2025

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.14614 of 2025
and W.M.P.Nos.16505 & 16507 of 2025

MIOT Hospitals Medical and Educational Trust,
Represented by its Trustee,
Mallika Mohandas,
4/112, Mount Poonamallee Road,
Manapakkam,
Chennai – 600 089. ...Petitioner

Versus

Assessment Unit,
Income Tax Department,
National Faceless Assessment Centre
(as National Faceless Penalty Centre) ...Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the records of the respondent bearing the impugned order Reference No.ITBA/PNL/F/271(1)(c)/2024-25/1074889255(1) dated 22.03.2025 and to quash the same for the Assessment Year 2016-17.

For Petitioner : Mr.M.V.Swaroop

For Respondents : Mr.V.Mahalingam,
Senior Standing Counsel
Mr.S.Premalatha,
Junior Standing Counsel
Mr.S.Rajasekar,
Junior Standing Counsel

ORDER

This writ petition has been filed by the petitioner seeking to call for the records of the respondent bearing the impugned order Reference No.ITBA/PNL/F/271(1)(c)/2024-25/1074889255(1) dated 22.03.2025 and to quash the same for the Assessment Year 2016-17.

2.Mr.V.Mahalingam, learned Senior Standing Counsel; Mr.S.Premalatha, learned Junior Standing Counsel and Mr.S.Rajasekar, learned Junior Standing Counsel takes notice on behalf of the respondent.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.Learned counsel for the petitioner would submit that, the assessment order was passed on 21.12.2018. Against which, the petitioner preferred an appeal before the Commissioner of Income Tax (Appeals) and the same was dismissed on 31.03.2024. Aggrieved over the same, the petitioner preferred an appeal before Income Tax Appellate Tribunal, Chennai Bench, whereby the appeal was allowed setting aside the assessment order dated 21.12.2018 vide order dated 29.11.2024 and the matter has been remanded back to the Assessing Officer was fresh consideration. During the pendency of the appeal, a show cause notice dated 17.01.2022 was issued initiating the penalty proceeding based on the assessment order dated 21.12.2018. The petitioner had also informed the respondent about the pendency of appeal vide their reply dated 24.01.2022. Thereafter, on 10.02.2025, another show cause notice was issued by the petitioner. In response, the petitioner gave their reply on 17.02.2025, stating that the matter was remanded back to the Assessing Officer for fresh consideration by the Income Tax Appellate Tribunal. However, the respondent without considering the same, the respondent had passed the impugned order confirming the penalty by order dated 22.03.2025 by recording that the petitioner had not filed any reply to the show cause notice dated 10.02.2025. Hence, the present writ petition has been filed.

5.Learned Senior Standing counsel appearing for the respondent would submit that since the original assessment order was set aside by virtue of the order dated 29.11.2024 by the Income Tax Appellate Tribunal, no penalty proceeding can be initiated. However, he would further submit that the if the Assessing Officer passes fresh assessment order liberty may be granted to initiate penalty proceedings.

6.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.

7.Considering the submissions made by the learned counsel for the petitioner as well as the Senior Standing Counsel appearing for the respondent, it is evident that the impugned order dated 22.03.2025 had been passed confirming the penalty based on the assessment order dated

21.12.2018, when the assessment order dated 21.12.2018 itself was set aside by the Income Tax Appellate Tribunal and the matter has been remanded for fresh consideration before the Assessing Officer. Thus, the impugned order is not sustainable in the eye of law and hence, the same is liable to be set aside.

8.Accordingly, the impugned order is set aside. In the event, fresh assessment order came to be passed, it is up to the respondent to quantify the penalty, if so advised.

9.In the result, this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

24.04.2025

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Index : Yes / No
Internet : Yes / No
Speaking Order / Non Speaking Order
Neutral Citation:Yes/No

KRISHNAN RAMASAMY, J.

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To

Assessment Unit,
Income Tax Department,
National Faceless Assessment Centre
(as National Faceless Penalty Centre)

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and W.M.P.Nos.16505 & 16507 of 2025

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