IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.06.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.20109 of 2023
& W.M.P.Nos.19444 & 19446 of 2023

GOKUL
328/878a, Nochipalayam Privu,
Moolakkadi Palladam Road,
Veerapandi, Tirupur- 641 605.

... Petitioner

Vs.

Assessment Unit
National Faceless Assessment Centre,
Income Tax Department Ministry Of Finance,
New Delhi.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, Calling for the records of the Respondent in its proceedings leading to the passing of the Order vide No.ITBA / AST/ S/ 147 / 2023 - 24 / 1052625763 (1) dated 6th May 2023, quash the same

For Petitioner : Ms.D.Pavithra

For Respondent : Dr.B.Ramaswamy, Sr.St.counsel

ORDER

This writ petition has been filed challenging the impugned order dated 06.05.2023 passed by the respondent.

2. The learned counsel for the petitioner would submit that in this case, an ancestral property was sold by the petitioner's father for a sum of Rs.7,06,49,510/-. Since the petitioner, his sister and his mother are the legal heirs, they were called upon to execute the sale deed of the said property. The said aspect was misunderstood by the respondent as if the aforesaid amount received by the petitioner, due to which, a notice was issued on 10.03.2023, whereby the petitioner was called upon to explain with regard to the same. Upon receipt of the said notice, the petitioner had filed a detail reply dated 14.03.2023 by stating that the said amount was received through sale consideration of an ancestral property, which was sold by his father, during the assessment year 2017 2018 and his father had disclosed the entire sale consideration of Rs.7,06,49,510/- by way of filing ITR for the said assessment year. In this regard, he had also

provided a copy of the sale deed and all the other relevant documents before the respondent. However, without properly going through the said reply along with the documents and in total non-application of mind, the respondent had passed the assessment order as if the sale consideration was received by the petitioner.

3. Further, he would submit that a similar proceeding was initiated against his sister and thereafter, the same was dropped by the respondent after considering the detailed reply filed by his sister vide order dated 25.05.2023. A copy of the said order has also been produced before this Court. By referring the same, he requests this Court to quash the impugned order dated 06.05.2023 passed by the respondent.

4. On the other hand, the learned Senior Standing counsel appearing for the respondent would submit that in this case, while filing the ITR, the petitioner has failed to disclose not only a sum of Rs.7,06,49,510/-, but also a sum of Rs.4,47,270/-. Further, in his reply, he had explained only with regard to the sale consideration of

Rs.7,06,49,510/-, however, no explanation was provided with regard to the additional income of Rs.4,47,270/-. Under these circumstances, the impugned assessment order came to be passed by the respondent on 06.05.2023. Hence, he request this Court to pass appropriate orders

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

6. In the case on hand, the petitioner's father had sold an ancestral property for a sum of Rs.7,06,49,510/-, for which, the petitioner, along with other legal heirs, were called upon to execute the sale deed in their capacity as legal heirs. According to the petitioner, the said amount was entirely received by his father and the same was disclosed by way of ITR, which was filed by his father during the assessment year 2017-2018. The said aspect was elaborately explained by the petitioner in his reply and the same was extracted by the respondent in the assessment order. However, in non-application of mind, the said assessment order

came to be passed as if the sale consideration was received by the petitioner.

7. Further, it was brought to the knowledge of this Court that a similar show cause notice was issued against the petitioner's sister, however, being satisfied with the reply filed by his sister, the said proceedings were dropped by the respondent vide order dated 25.05.2023.

8. In the present case, there is no doubt that the entire sale consideration was disclosed by the petitioner's father in his ITR during the assessment year 2017-2018. The said aspect was also explained by the petitioner vide his reply dated 14.03.2023. When such being the case, it is crystal clear that the said amount of Rs.7,06,49,510/- was not received by the petitioner and hence, it is not proper for the respondent to pass the impugned order by treating the said amount and calculate the short term capital gain of the petitioner. Hence, the said issue is liable to be quashed.

9. Further, a perusal of the impugned order makes it clear that the respondent had also raised an issue with regard to the additional income of Rs.4,47,270/-. The petitioner had not provided any explanation with regard to the said amount in his reply dated 14.03.2023 and the said issue is yet to be answered by the petitioner. In such case, this Court is inclined to provide an opportunity to the petitioner to explain with regard to the additional income of Rs.4,47,270/-. Therefore, this Court passes the following order:

(i) The inclusion of sale consideration made in the impugned order to the extent of Rs.7,06,49,510/- is hereby quashed.

(ii) As far as the remaining issue, i.e., additional income of Rs.4,47,270/-, is concerned, this Court set aside the impugned order to that extent and remits the matter back to the respondent for fresh consideration.

(iii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of receipt of a copy of this order.

(iv) On filing of such reply/objection by the petitioner, the 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.

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

25.06.2025

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

To

Assessment Unit
National Faceless Assessment Centre,
Income Tax Department Ministry Of Finance,
New Delhi.

KRISHNAN RAMASAMY.J.,

nsa

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and W.M.P.Nos.19444 & 19446 of 2023

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