IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.26178 of 2021
and
W.M.P. Nos.27631 and 27632 of 2021

Estra Enterprises Pvt. Ltd.,
6th Floor Tower C, Tek Meadows,
No.51, Rajiv Gandhi Salai,
Sholinganallur, Chennai-600 119,
Represented by its Director,
Mr.Suresh Kumar ... Petitioner

Vs.

1.Additional / Joint/ Deputy/ Assistant Commissioner of Income Tax / Income Tax Officer,
National Faceless Assessment Centre,
Delhi.

2.Deputy Commissioner of Income-Tax,
Corporate Circle 1(1),
Room No.611, 6th Floor,
Wanaparthy Block, No.121,
M.G.Road, Chennai-600 034.

3.National Faceless Assessment Centre,
Income Tax Department,
Ministry of Finance,
Government of India,
Delhi. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Prohibition to prohibit the 1st Respondent from proceeding further with income-tax assessment for AY 2018-19 in respect of Notice dated 16.11.2021 bearing identification No.ITBA/AST/F/142(1)/2021-22/1036981922(1) in the case of the petitioner.

For Petitioner : Mr.M.V.Swaroop

For Respondents : Mr.B.Ramanakumar
Senior Standing Counsel

ORDER

The present writ petition is filed challenging the impugned notice dated 16.11.2021 on the limited ground that it is contrary to the directions issued by this Court in W.P.No.17709 of 2021 dated 26.08.2021.

2. This is the second round of litigation. Originally, an assessment order was passed vide proceedings dated 06.08.2021 for the assessment year 2021-22. The same was challenged on the ground that it was made in violation of principles of natural justice and this Court was pleased to set aside the order and the following directions came to be issued:

> *"19. In the light of the narrative discussion and dispositive reasoning set out thus far, the following order is passed:*
>
> *a) Impugned Assessment order dated 06.08.2021 bearing reference ITBA/AST/S/143(3)/2021~22/1034696402(1) is set aside solely on the ground of non adherence to statutorily ingrained NJP principle;*
>
> *b) A sequittur to the previous directive (though obvious) is, this Court has not expressed any opinion or view on the merits of the matter leaving open all the questions to be decided by Assessing*

Authority in the de novo exercise;

c) De nova assessment exercise shall be commenced by 01.09.2021 and completed as expeditiously as the business of the assessment mechanism would permit and in any event within eight(8) weeks from 01.09.2021 i.e., on or before 27.10.2021."

2.1. A reading of the above order of this Court would make it clear that order of assessment, if any pursuant to the above remand ought to be completed on or before 27.10.2021. Application for copy of the order of this Court was apparently made on 17.09.2021 and copy was made ready on 06.10.2021. However, notice came to be issued on 16.11.2021 whereby the petitioner was called upon to furnish documents and information. Petitioner in response filed a letter dated 19.11.2021 stating that the entire exercise was beyond the period provided by this Court vide its order dated 26.08.2021 in W.P.No.17709 of 2021 referred above. Though time lines fixed by this Court had already expired, despite which, respondent authority instead of seeking extension of time for making the assessment, tried to explain to the petitioner that the proceedings can be maintained. The assessment was then completed vide proceedings dated 13.12.2021. It is this order of assessment which is the subject matter of challenge in the present writ petition.

3. Learned counsel for respondent would submit that they had filed a petition seeking extension of time for making assessment on 03.02.2022 i.e., two months after the order of assessment was made, which as stated above was beyond time line fixed by this Court. A reading of the counter affidavit filed by the respondent for extension of time is relevant and extracted hereunder:

> *"4. At the outset, it is humbly submitted that this writ miscellaneous petition is untenable and is an attempt to cover up the complete violation of the judgment/ order dated 26.08.2021 rendered by this Court in W.P.No.17709 of 2021. It is submitted that the Revenue's prayer to extend the time line from 8 weeks to 16 week is only to validate an assessment order passed by them and has no legal basis.*
>
> *5. It is also establishment law that an application for extension of time must be filled within the expiry of said time limit. Upon the lapse of the period of limitation prescribed, the right of the revenue to assess an assessee gets extinguished and any attempt to extend prescribed time periods after such lapse is severely prejudiced to the rights of an assessee. It is for this reason that a jurisdiction has been developed, particularly in taxation, wherein once a period of limitation expires, the immunity of an assessee from subjecting itself to the assessment sets in and the right of the revenue to make assessment gets extinguished. Consequently, the Revenue cannot assume jurisdiction after expiry of the period of limitation."*

3.1. A reading of paragraph 4 would show that the respondent after having admitted that they were informed by the petitioner vide letter dated 19.11.2021 of the order of this Court in W.P.No.17709 of 2021 dated 26.08.2021 that the time line stipulated by this Court for completing the assessment expired on 27.10.2021, proceeded to pass the impugned order of assessment and chose to file an extension petition two months thereafter. The above conduct of respondent is wholly unacceptable.

4. In view thereof, the impugned order of assessment is liable to be set aside. It may also be relevant to note that the Respondent authority has in response to the petitioner's letter dated 19.11.2021 stated that the order was received by the jurisdictional CIT office only on 18.10.2021 and therefore proceeded to reckon the limitation from 18.10.2021 which is completely contrary to the directions of this Court in W.P.No.17709 of 2021 dated 26.08.2021 viz., that assessment, if any, ought to be completed on or before 27.10.2021. The above order is thus made on a gross misconception and misreading of the directions of this Court and is thus set aside.

5. Writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

21.04.2025

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
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MOHAMMED SHAFFIQ, J.

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To:
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of Income Tax / Income Tax Officer,
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