IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-10-2025

CORAM

THE HONOURABLE MR JUSTICE C. SARAVANAN

WP No. 35023 of 2022
AND
WMP NO. 34460 OF 2022

1. Angammal Educational Trust
Rep by its Chairman,
Mr.M.Karunanithi, S/o.S.Muthu
Gounder, No.1, Elayampalayam
Village, Kumaramangalam,
Tiruchengodu, Namakkal- 637 205.

Petitioner(s)

Vs

1. The Income Tax officer
Assessment Unit, national Faceless
Assessment Centre, Income Tax
Department, Ministry of Finance, Room
No.401, 2nd Floor, E- Ramp,
Jawaharlal Nehru Stadium, Delhi- 110
003.

2.The Assistant Commissioner of
Income Tax (Exemptions)
No.1510, Mayflower Midcity Building,
Trichy Road, Coimbatore- 641 018.

Respondent(s)

WP No. 35023 of 2022

PRAYER

Calling for the records in DIN.ITBA / AST / S/ 143 (3) / 2022 - 23 / 1048124731 (1) dated 20.12.2022 on the file of the 1st Respondent relating to A.Y. 2021 - 22 and quash the same.

WP No. 35023 of 2022

For Petitioner(s):	G.Baskar M.P.Senthil Kumar-ms/834/1994 S.Sree Lakshmi Valli- ms/368/2017 I.Dinesh
For Respondent(s):	Mr. V. J. Arul Raj Senior Standing Counsel

ORDER

In this writ petition, the petitioner has challenged the impugned assessment order dated 20.12.2022 for the assessment year April 2021 - March 2022. The impugned order has been passed under Section 143 (3) read with 144 (b).

2. The last date for completing the assessment would have expired on 31.12.2022. In this case, the proceedings were initiated against the petitioner after the return of income was filed by the petitioner on 18.02.2022 by issuing

notice under Section 143 (2) on 28.06.2021. In response to the notice issued under Section 142 (1), the petitioner has ultimately, filed a detailed submissions along with annexures on 17.11.2022. Thereafter, certain other details were called for on 21.11.2022 fixing the due date as 28.11.2022. The petitioner, however, failed to respond to the same.

3. In this background, a show cause notice was issued to the petitioner on 07.12.2022. In the said show cause notice, the last date for giving the reply / response was fixed as 12.12.2022. However, by a communication dated 12.12.2022, the petitioner sought for further time, stating that the petitioner's accountant was down with severe fever and therefore, sought time till 24.12.2022. Since the request of the petitioner was not considered, the impugned order was passed on 20.12.2022.

4. The learned counsel for the petitioner submits that the petitioner has participated in the proceedings all along and in response to the show cause notice dated 07.12.2022, the petitioner could not file a reply as its accountant was unwell.

5. It is submitted that eventhough the time for passing the order under the limitation prescribed under Section 153 would have expired on 31.12.2022, the respondents proceeded to pass the impugned order on 20.12.2022. The learned counsel for the petitioner submits that the petitioner has a fair case to succeed and therefore, since one opportunity be given to explain the case afresh.

6. On the other hand, the learned counsel for the respondents submits that the impugned order is a detailed order and does not warrant interference in the hands of this Court under Article 226 of the Constitution of India.

7. It is submitted that the petitioner was given a final opportunity to respond to the show cause notice dated 07.12.2022. However, the petitioner failed to take advantage of the same, and therefore, the impugned order has been passed under Section 143 (3) read with Section 144B of the Income Tax Act, 1961.

8. Specifically, the learned counsel for the respondents has placed reliance on the decision of the Honourable Supreme Court in the case of ***Union of India Vs. Guwahati Carbon Ltd.***, wherein the following earlier decision of the Honourable Supreme Court in ***Munshi Ram Vs. Municipal Committee, Chheharta***, the Court held as follows:

> *"14. In Union of India vs. Guwahati Carbon Ltd., (2012) 11 SCC 651, this Court has reiterated the aforesaid principle and observed:*
>
> *"8. Before we discuss the correctness of the impugned order, we intend to remind ourselves the observations made by this Court in Munshi Ram v. Municipal Committee, Chheharta, (1979) 3 SCC 83. In the said decision, this Court was pleased to observe that: (SCC p. 88, para 23).*
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> *"23. ... when a revenue statute provides for a person aggrieved by an assessment thereunder, a particular remedy to be sought in a particular forum, in a particular way, it must be sought in that forum and in that manner, and all the other forums and modes of seeking [remedy] are excluded."""*

9. The respondent also placed reliance on the decision of the Honourable Supreme Court in ***Thansingh Nathmal Vs. Supt. of Taxes, AIR 1964 SC 1419***, which was followed by the Honourable Supreme Court in ***Commissioner of Income Tax and Others Vs. Chhabil Dass Agarwal*** reported in ***2014 (1) SCC 603***, wherein it was held as under:

> *"**15.** Thus, while it can be said that this Court has recognized some exceptions to the rule of alternative remedy, i.e., where the statutory authority has not acted in accordance with the provisions of the enactment in question, or in defiance of the fundamental principles of judicial procedure, or has resorted to invoke the provisions which are repealed, or when an order has been passed in total violation of the principles of natural justice, the proposition laid down in Thansingh Nathmal case, Titagarh Paper Mills case and other similar judgments that the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field. Therefore, when a statutory forum is created by*

law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation.

***16.** In the instant case, the Act provides complete machinery for the assessment/re-assessment of tax, imposition of penalty and for obtaining relief in respect of any improper orders passed by the Revenue Authorities, and the assessee could not be permitted to abandon that machinery and to invoke the jurisdiction of the High Court under Article 226 of the Constitution when he had adequate remedy open to him by an appeal to the Commissioner of Income Tax (Appeals). The remedy under the statute, however, must be effective and not a mere formality with no substantial relief. In Ram and Shyam Co. vs. State of Haryana, (1985) 3 SCC 267 this Court has noticed that if an appeal is from "Caesar to Caesar's wife" the existence of alternative remedy would be a mirage and an exercise in futility."*

Hence, he prays for dismissal of the writ petition.

10. He submits that the petitioner at the best can be given liberty to works out the remedy before the Appellate Commissioner under Section 246 A of the Income Tax Act, 1961. The learned counsel for the respondent, further, submits that proceedings commenced as early as on 28.06.2022 and adequate opportunity was given to the petitioner and therefore, delay on the part of the petitioner to respond to the show cause notice dated 07.12.2022 had resulted in the impugned order, which does not warrant any interference.

11. Having considered the submissions made by the learned counsel for the petitioner and the learned counsel for the respondents, and having perused the counters filed by the respondent on 15.03.2023 and on 21.06.2023, and having considered the decision of the Honourable Supreme Court referred to supra, I am of the view that in this case there has been an violation of principles of natural justice as the proceedings itself commenced only on 28.06.2022. Although there was marginal delay on the part of the petitioner to respond to the notice issued under Section 143 (2), the fact remains that the petitioner had remained responded to the same on 17.11.2022 with annexures. Thereafter,

certain other queries were raised on 21.11.2022 fixing the due date as 28.11.2022, which was not responded to by the petitioner and therefore, the show cause notice dated 07.12.2022 was issued.

12. It is the case of the Department that the petitioner has not cooperated with the respondents. Even otherwise, the impugned order should also have been passed under Section 144 of the Income Tax Act, 1961 whereas the impugned order has been passed under Section 143 (3) read with 144 (b). Therefore, the impugned order is unsustainable. Therefore, it is liable to be quashed. Accordingly, it is quashed and the case is remitted back to the first respondent to pass fresh orders as expeditiously as possible preferably within a period of six months.

13. In case, the respondent wanted to reject the request of the petitioner made on 12.12.2022, seeking time upto 24.12.2022, the petitioner should have been informed that the request of the petitioner was not feasible for being accepted to and therefore, the assessment orders will be passed in view of the

limitation prescribed under Section 153 of the Income Tax Act and therefore, the impugned order will be passed on 20.12.2022.

14. This Writ Petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petition is closed.

25-10-2025

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

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WP No. 35023 of 2022

To

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Assessment Unit, national Faceless
Assessment Centre, Income Tax
Department, Ministry of Finance, Room
No.401, 2nd Floor, E- Ramp,
Jawaharlal Nehru Stadium, Delhi- 110
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2.The Assistant Commissioner of
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No.1510, Mayflower Midcity Building,
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C.SARAVANAN J.

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