IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.38211 of 2024
and
W.M.P.Nos.41338 and 41344 of 2024

Mohammed Hussain ...Petitioner

Vs.

1.National Faceless Assessment Centre,
Income Tax Department, Ministry of Finance,
Government of India,
New Delhi 2.

2.Assistant Commissioner of Income Tax,
Non-Corporate Ward 4,
BSNL Building, Greams Road,
Chennai 600 006. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari calling for the records of the first respondent in PAN:AAXPH5147G in DIN:ITBA/PNL/F/271AAC(1)/2024-25/1069228892(1) dated 27.09.2024 and quash the same as illegal and arbitrary.

For Petitioner : Mr.A.Chandra Sekaran

For Respondents : Dr.B.Ramaswamy,
Senior Standing Counsel.

ORDER

The present writ petition is filed challenging the impugned order dated 27.09.2024 passed under 271AAC(1) of the Income Tax Act, 1961 which was issued pursuant to the order of assessment dated 13.03.2024.

2. It is not in dispute that the order of assessment dated 13.03.2024 was the subject matter of a writ petition in W.P.No.9730 of 2024 which was set aside by this Court vide order dated 28.10.2024 on the premise that the order dated 13.03.2024 was made in violation of principles of natural justice. While setting aside the order, this Court was pleased to pass the following directions:

"………

8. In light of the above, this Court is inclined to set-aside the impugned assessment order passed by the first respondent. While setting aside the impugned assessment order, this Court passes the following directions:

(i) The order impugned herein is set aside and the matter is

remanded to the first respondent for fresh consideration.

(ii) The first respondent is directed to provide all the documents relied upon against the petitioner, which were seized at the premise of M/s.J.M.Jain LLP, New Delhi and the statement recorded against the petitioner from the employees of M/s.J.M.Jain LLP, New Delhi, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

(iii) Upon receipt of such documents by the respondents, the petitioner is directed to file the reply within a period of four weeks thereafter.

(iv) On filing of such reply/ objection by the petitioner, the first respondent shall consider the same and issue a 14 days clear notice by fixing the date for 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.

3. It is submitted by the learned counsel for the petitioner that pursuant to the above order of assessment being set aside, the order under Section 271AAC(1) of the Income Tax Act, 1961 may no longer survive, as it is merely consequential to the order of assessment. It was thus submitted by the learned counsel for the petitioner that the impugned order may be set aside.

4. The learned counsel for the respondents would submit that they may be granted liberty to revisit the issue of penalty after the completion of the assessment proceedings.

5. In view thereof, the impugned order dated 27.09.2024 is set aside on the limited ground that the order of assessment dated 13.03.2024 was set aside by this Court vide order dated 28.10.2024. The respondents are at liberty to to revisit the issue of penalty after the completion of the assessment proceedings.

6. Accordingly, the writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

02.01.2025

Speaking (or) Non Speaking Order
Neutral Citation: Yes/No
shk

To

1.National Faceless Assessment Centre,
Income Tax Department, Ministry of Finance,
Government of India,
New Delhi 2.

2.Assistant Commissioner of Income Tax,
Non-Corporate Ward 4,
BSNL Building, Greams Road,
Chennai 600 006.

MOHAMMED SHAFFIQ, J.

shk

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and
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