BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.4251 of 2025
and
W.M.P.(MD)Nos.3054 and 3055 of 2025

Senthilkumar ... Petitioner

-vs-

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

2.The Principal Commissioner of Income Tax,
CR BLDG 2, VP Rathnasamy Nadar Road,
Vishwanathapuram, Madurai - 625 002

3.The Income Tax Officer,
Ward 1, Income Tax Office,
No.100, N.K Road,
Thanjavur - 613 007. ... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on the file of the first respondent in Assessment Order in PAN AXYPS4086R, DIN No.ITBA/AST/S/147/2023-24/1063196513(1) passed u/s 147 r/w. Section 144B of the Income Tax Act for Assessment year 2018-19, dated 22.03.2024 and quash the same as illegal, devoid of merits and in violation of principles of natural justice.

For Petitioner	:	Mr.V.Arun Pandian
For Respondents	:	Mr.N.Dilip Kumar Senior Standing Counsel

ORDER

This writ petition has been filed challenging the assessment order passed by the first respondent for the assessment year 2018-2019, dated 22.03.2024.

2. The learned counsel appearing for the petitioner submits that the petitioner was selected for re-assessment based on the risk management strategy, and the assessment process was initiated by issuance of a notice under Section 148 of the Income Tax Act for the financial year 2017-2018 [Assessment year 2018-19]. The impugned assessment order has resulted in a total tax liability of Rs.2,13,88,002/- being recovered from the petitioner.

3. The learned counsel for the petitioner submits that the failure to fix the taxable amount for assessment, which renders the assessment order incomplete and legally invalid. Further, the jurisdictional officer, who issued the notice under Section 148 of the Income Tax Act, lacks the authority to initiate re-assessment under Section 147 of the Income Tax Act, as such re-assessments must be conducted by the faceless authority, as per the provisions of Section 151A of the Income Tax Act and the Scheme for National Faceless Assessment, which came into effect on 01.04.2021.

4. The learned counsel for the petitioner further submits that the re-assessment under Section 147 of the Income Tax Act begins with the issuance of a notice under Section 148 of the Income Tax Act. However, in the case of the petitioner, the notice under Section 148 of the Income Tax Act was issued by the jurisdictional officer and not by the faceless authority as required under the provisions of the said Act. The issuance of the notice by the jurisdictional officer in violation of the National Faceless Assessment Scheme, renders the entire re-assessment process invalid. The learned counsel for the petitioner emphasizes that the procedural requirement for a faceless authority to issue such notices is mandatory and non-compliance with the said requirement causes a fundamental flaw in the assessment proceedings. Hence, the learned counsel for the petitioner prays for appropriate relief, including the quashing of the impugned assessment order and any further proceedings arising therefrom, on the grounds of jurisdictional error and non-compliance with statutory provisions.

5. The learned Senior Standing Counsel for the respondents submits that the petitioner has already filed an appeal against the same impugned assessment order and the appeal is now pending before the first respondent (the competent authority). Therefore, the petitioner is required to pursue the appeal proceedings and exhaust the remedy available before approaching this Court.

6. Heard both sides.

7. As per the established legal principles, when an appeal is pending before a competent authority, the petitioner must await for the outcome of that appeal. It is well settled that the existence of an alternative remedy precludes the petitioner from approaching this Court through a writ petition unless there is an exceptional circumstance, which has not been demonstrated in the present case. Further, this Court reaffirms the judicial discipline that discourages the maintenance of parallel proceedings in writ jurisdiction when a statutory remedy has been availed. The appellate authority is the appropriate forum to resolve the issues raised by the petitioner and the petitioner should await the decision of the first respondent in the appeal proceedings.

8. Further, the petitioner's grievance regarding the jurisdiction of the officer issuing the notice and the procedural irregularity in initiating the re-assessment under Section 147 of the Income Tax Act, can be adequately addressed in the appeal process. The petitioner has failed to establish that the appeal process would not provide an adequate remedy or that the matter requires urgent intervention by this Court.

9. In view of the above facts and circumstances of the case, this Court finds that there is no need for intervention at this stage, since the petitioner has already invoked the appropriate statutory remedy by filing an appeal. The pendency of the appeal before the competent authority is a sufficient reason for this Court to refrain from entertaining the Writ Petition. Hence, this Writ Petition is dismissed. The petitioner is directed to pursue the appeal proceedings before the first respondent in accordance with the law. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes / No **18.02.2025**
Index : Yes / No
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VIVEK KUMAR SINGH, J.

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