BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.5477 of 2025
and
WMP (MD) Nos.4007, 4008 & 4010 of 2025

Shakila Banu : Petitioner

Vs.

The Income Tax Officer,
Ward 1(2), Tiruchirappalli. : Respondent

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the Assessment order passed by the respondent in Order No. ITBA/AST/S/144/2019-20/1023075026(1) dated 25.12.2019 and quash the same as illegal and direct the respondent to consider the Income Tax Return filed by the petitioner on 26.12.2019.

For Petitioner : Mr. P.Selvakumar

For Respondents : Mr.N.Dilip Kumar

<u>O R D E R</u>

The instant writ petition has been filed challenging the assessment order dated 25.12.2019 passed by the respondent and consequently, seeks a direction to the respondent to consider the income tax return filed by the petitioner on 26.12.2019.

2. The petitioner's case is that she is a housewife and does not have a regular and consistent source of income. The petitioner made cash deposits totaling Rs. 16,04,500/- during the period from 09.11.2016 to 30.12.2016, derived from the sale of property, but failed to file her income tax return within the stipulated time frame for the financial assessment year 2017-2018 due to her health issues. Subsequently, she received a show-cause notice dated 09.12.2019, followed by an assessment order dated 25.12.2019 under Section 144 of the Income Tax Act, 1961. Thereafter, the petitioner filed her income tax return on 26.12.2019 and submitted a reply letter dated 07.01.2020. The petitioner's grievance is that the respondent has not considered the belated income tax return and reply. Aggrieved by this, the petitioner has filed the present writ petition.

3. Mr. N. Dilip Kumar, learned counsel appearing on behalf of the respondent, submitted that the petitioner has already filed an appeal before the Commissioner of Income Tax (Appeals), which was dismissed. This fact is stated in the petitioner's own affidavit filed in this writ petition. Since the assessment order has merged with the order of the appellate authority, the petitioner is required to file an appeal under Section 253 of the Income Tax Act before the Appellate Tribunal.

4. Heard the learned counsel for the parties and perused the materials available on record.

5. Admittedly, the petitioner has preferred an appeal against the impugned assessment order and the same was dismissed on 11.01.2024. Therefore, the appropriate legal remedy for the petitioner is to file an appeal under Section 253 of the Income Tax Act, 1961, before the Appellate Tribunal, which explicitly allows for an appeal to the Appellate Tribunal against the orders passed by the Commissioner of Income Tax (Appeals).

6. In view of the above, the Writ Petition stands disposed of, granting liberty to the petitioner to avail of the appeal mechanism under Section 253 of the Income Tax Act, 1961. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

19.03.2025

Index : Yes / No
Internet : Yes / No

PKN

To

The Income Tax Officer,
Ward 1(2), Tiruchirappalli.

VIVEK KUMAR SINGH, J.

PKN

W.P.(MD) No.5477 of 2025

19.03.2025