BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 26.03.2025

CORAM

THE HONOURABLE MRS. JUSTICE J.NISHA BANU
AND
THE HONOURABLE MRS. JUSTICE S.SRIMATHY

WA(MD). NO.782 OF 2025
AND
CMP(MD) NO.5294 AND 5296 OF 2025

St.Alphonsa Trust
represented by its Managing Trustee S.Gnanaselvam
1 Kottar Vicariate Office Assissi Campus
Nagercoil 629 001 ... Appellant

Vs

1.Assessment Unit
Income Tax Department
New Delhi

2.Income Tax Officer,
Exemptions Ward
Tirunelveli ... Respondents

PRAYER :- Writ Appeal filed under Clause 15 of Letters patent against the order of this Court dated 10.01.2025 in WP(MD). No. 28185/2024.

For Appellants	: Mr.B.Saravanan, Senior Counsel For Ms.T.V.Muthu Amirami
For Respondents	: Mr.J.Parekh Kumar Standing counsel

JUDGMENT

(Judgment of the Court was delivered by J.NISHA BANU, J.)

The present W.A.(MD)No.782 of 2025 is filed by the writ petitioner challenging the order dated 10.01.2025 passed in W.P.(MD) No.18185 of 2024.

2. The W.P.(MD) No.18185 of 2024 was filed for Writ of Certiorarified Mandamus to quash the assessment order passed under section 144B read with section 143(3) of Income Tax Act on 23.03.2023 for the assessment year 2022-2023 and consequently to re-do the assessment. The Writ Court had directed the writ petitioner to approach the Appellate Authority by filing an appeal, hence the present writ appeal.

3. The contention of the appellant before the Writ Court is that even though an opportunity was granted through video conferencing, it was an empty formality. Further, the respondent-Income Tax Department has failed to direct the appellant/writ petitioner to produce the relevant documents.

4. On the other hand, the contention of the respondent-Department before the Writ Court is that these two issues were considered by the Writ Court. The Writ Court has held that the first respondent-Income Tax Department will not be aware that the petitioner is in possession of the documents. If the petitioner is in possession of those documents, the petitioner ought to have furnished before the Assessing Officer.

5. The learned Standing counsel appearing for the respondent would submit that the plea of the appellant/petitioner that there is violation of principles of natural justice was rejected by the writ court and the learned Single Judge, rightly dismissed the writ petition giving liberty to the appellant/petitioner to file appeal before the appropriate appellate authority.

6. The main contention of the learned counsel for the appellant in the present writ appeal is that an opportunity ought to have been granted to the assessee before passing the impugned order.

7. Heard both sides.

8. As held by the Writ Court, the appellant has to only approach the appellate authority by filing an appeal. As per Section 246 of the Income Tax Act, 1961, if the taxpayer is aggrieved by an order of the Assessing Officer, in such a case, he can file an appeal against the order of the Assessing Officer before the Joint Commissioner (Appeals) or before the Commissioner of Income-tax (Appeals).

9. The appellant has approached this court by filing writ petition and now writ appeal without approaching the appellate authority by construing that the appellate authority would insist for pre-deposit of 20% of the demand as condition for entertaining the appeal under Section 246A of the Act. However, it is only a condition which will be imposed by the assessing authority for grant of stay for the remaining amount of the demand under Section 220(6) of the Act.

10. In the light of the above discussion and taking note of the subsequent Rectification order passed under Section 154 of the Act, by the 2nd respondent on 04.03.2025 and the pendency of the present writ appeal before this court, the delay in preferring the appeal before the appellate authority, can be

condoned by the appellate authority. The appellant is directed to file appeal before the appellate authority within a period of two weeks from the date of receipt of a copy of this order. On such filing of appeal, the appellate authority shall consider and dispose of the appeal in accordance with law.

11. With the above direction, the writ appeal is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

[J.N.B.,J] [S.S.Y.,J]
26.03.2025

NCC : Yes/No
Index : Yes/No

Tmg / Rr /nvsri

<u>J.NISHA BANU</u>, J
AND
<u>S.SRIMATHY,</u> J.

Tmg / Rr

ORDER
IN
WA(MD) No.782 of 2025

Date : 26/03/2025