BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.8565 of 2025
and
W.M.P.(MD)Nos.6412 and 6413 of 2025

M/s.Vivek Residency,
(Formerly Known as Saswath Residency)
Rep. by its Managing Partner Mr.J.Vivek,
S/o.Late C.Jegadeesan,
Meenakshi Avenue,
S.Nos.48/2 and 48/3 Kalai Nagar,
Madurai – 625017.
Now, Address changed to
No.2, Melur Road,
Vinayaka Nagar, Madurai – 625 020. ... Petitioner

-vs-

1.The Chairman,
The Central Board of Direct Taxes,
Ministry of Finance, Govt. of India,
Department of Revenue,
Central Secretariat,
North Block, New Delhi – 110001.

2.The Income Tax Officer,
Non Corporate Ward 1(7),
No.2, C.R. Buildings,
V.P. Rathinasamy Road,
Bibikulam, Madurai - 625002. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in DIN:ITBA/AST/M/143(3)/2024-25/1074199112(1) dated 07.03.2025 on the file of the second respondent for the A.Y.2011-12 and quash the same and direct the second respondent to allow the deduction claimed u/s.80IB(10) of the Act for the A.Y. 2011-12.

For Petitioner	:	Mr.G.Baskar
For Respondents	:	Mr.N.Dilip Kumar Senior Standing Counsel

ORDER

This Writ Petition is filed challenging the assessment order passed by the second respondent, dated 07.03.2025, for the Assessment Year 2011-2012.

2. With the consent of both sides, this Writ Petition is taken up for final disposal at the admission stage itself.

3. The learned counsel appearing for the petitioner submits that the order of assessment for the year 2011-2012 has been passed without providing sufficient opportunity to the petitioner, which according to the petitioner, is in violation to the principles of natural justice. Further, the second respondent erred in denying the deduction under Section 80IB(10) of the Income Tax Act solely on the ground that the return of income was not filed within the due date under Section 139(1) of the Income Tax Act, even though the petitioner had satisfied all other requirements for claiming the same. The impugned order of assessment passed by the second respondent is illegal, as it has been passed beyond the period of limitation and therefore, the same is time-barred. Furthermore, the order of the second respondent, dated 07.03.2025, is illegal and non-est in the eye of the law, as the same is not in conformity with the directions of the first respondent in Circular No.19/2019 [F.No.225/95/2019-ITA-II], dated 14.08.2019.

4. Mr.N.Dilip Kumar, learned Senior Standing Counsel appearing for the respondents submits that the petitioner was served with notice on 24.05.2024 under Section 142(1) of the Income Tax Act, 1961, requesting to furnish explanations supported by documentary evidence on or before 10.06.2024. However, the petitioner has failed to furnish a detailed explanation in response to the questionnaire raised by the respondents.

5. The learned Senior Standing Counsel further submits that the petitioner is having an appeal remedy before the Commissioner (Appeals) under Section 246A of the Income Tax Act, 1961. Instead of invoking the said appeal remedy, the petitioner has directly approached this Court.

6. Considering the fact that the petitioner is having an appeal remedy before the Commissioner (Appeals) under Section 246A of the Income Tax Act, 1961, this writ petition is disposed of, with liberty to the petitioner to approach the appellate authority and raise all the grounds raised in this writ petition in the appeal. In the event, if any appeal is filed within a period of two weeks from the date of receipt of a copy of this order, the appellate authority shall entertain the appeal without reference to the period of limitation and dispose of the same in accordance with law, within a period of three months thereafter. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

27.03.2025

NCC : Yes / No
Index : Yes / No
smn2

To:-

1.The Chairman,
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Ministry of Finance, Govt. of India,
Department of Revenue,
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North Block, New Delhi – 110001.

2.The Income Tax Officer,
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VIVEK KUMAR SINGH, J.

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W.P.(MD)No.8565 of 2025

27.03.2025