2023:KER:74839

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

THURSDAY, THE 23RD DAY OF NOVEMBER 2023 / 2ND AGRAHAYANA, 1945

WP(C) NO. 27808 OF 2023

PETITIONER:

PREMALATHA KOROTTOLIPRASANTHAM,
1"PRASANTHAM",KOROTHOLI, PUTHIYANGADI P. O.,
CALICUT, PIN – 673001.

BY ADVS.
SRI. P. RAGHUNATHAN
SRI. PREMJIT NAGENDRAN
SMT. M. SHYLAJA
SRI. RISHAL K.

RESPONDENTS:

1 INCOME TAX OFFICER,
WARD 1(1), AAYAKAR BHAVAN,NORTH BLOCK,
NEW ANNEXURE BUILDING,MANANCHIRA,
CALICUT, PIN – 673001.

2 ASSESSMENT UNIT,
INCOME TAX DEPARTMENT,MINISTRY OF FINANCE,
GOVERNMENT OF INDIA, NEW DELHI, PIN – 110001.

3 CENTRAL BOARD OF DIRECT TAXES,
MINISTRY OF FINANCE, NORTH BLOCK,
NEW DELHI, BY CHAIRMAN, PIN – 110001.

4 GOVERNMENT OF INDIA,
MINISTRY OF FINANCE, CENTRAL SECRETARIAT,
NORTH BLOCK, NEW DELHI BY SECRETARY, PIN – 110001.

BY ADV.
SRI. CHRISTOPHER ABRAHAM - SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

DINESH KUMAR SINGH, J.

W.P.(C) No.27808 of 2023

Dated this the 23rd day of November, 2023

JUDGMENT

1. The present writ petition has been filed impugning the assessment order in Exhibit P-1 dated 28.03.2023 under Section 147 read with Section 144B of the Income Tax Act, 1961.

2. The petitioner did not file her regular return under Section 139 of the Income Tax Act, 1961 (hereinafter referred to as "the Act" for short) for the assessment year 2018-19. The petitioner's case was selected for scrutiny on the basis of the specific information by issuing notice under Section 148 of the Income Tax Act, 1961. The case of the assessee was reopened on the following ground; 'the assessee has cash deposits including bearers cheque aggregating to Rs. 1,46,38,460/- in his bank account.' Notices under Section 142 (1) of the Act dated 05.01.2023 and 28.02.2023 were issued to the petitioner. The petitioner did not complied with the notices. Further, communication dated 08.02.2023 fixing date of compliance 15.02.2023 was addressed to the petitioner requiring reply in respect of the said cash transactions in her bank account.

The petitioner had failed to respond to the notices issued under Sections 148 and 142 (1) of the Act. In spite of several statutory notices and communication letter, the assessee has failed to file her return of income in response to the notice under Section 148 and did not responded to any of the notices. Therefore, a show cause notice dated 13.03.2023 was issued to the assessee fixing the date of compliance on 20.03.2023. thereafter, the assessee/petitioner has submitted her reply on 20.03.2023 and filed return of her income on 18.03.2023 declaring total income of Rs. 6,06,800/-.

3. Considering the unexplained cash deposit to the extent of Rs. 1,46,38,460/-, the said income was added to the income of the petitioner as income from other sources under the provisions of Section 69A of the Act. Accordingly the penalty proceedings were initiated for the unexplained cash deposit.

4. Instead of taking recourse to the appellate provision, the petitioner has approached this Court against the impugned assessment order. This Court does not find that the impugned assessment order is without jurisdiction or violation of any statutory provision which provides for completing an assessment proceedings for the escaped income. Thus, this writ petition has no merit and

the same is hereby dismissed. However, it would be open to the petitioner to file appeal against the said assessment order if she is so advised.

Sd/-
DINESH KUMAR SINGH
JUDGE

Svn

APPENDIX OF WP(C) 27808/2023

PETITIONER'S EXHIBITS

EXHIBIT P-1	ORDER OF ASSESSMENT DT. 28.03.2023 FOR AY 2018.19 BY SECOND RESPONDENT
EXHIBIT P-2	PHOTOCOPY OF SHOW CAUSE NOTICE DT. 13.03.2023 BY SECOND RESPONDENT
EXHIBIT P-3	PHOTOCOPY OF ORDER U/S 148A[D] DT. 25.03.2022 BY FIRST RESPONDENT
EXHIBIT P-4	PHOTOCOPY OF NOTICE U/S 148 DT. 25.03.2022 BY FIRST RESPONDENT
EXHIBIT P-5	PHOTOCOPY OF ITR ACKNOWLEDGEMENT DT. 18.03.2023 AND TRADING /PROFIT & LOSS ACCOUNT AND BALANCE SHEET FOR FY 2017.18