

W.P.No.23073 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated : 19.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.23073 of 2024 &
W.M.P.Nos.25176 of 2024 & 25179 of 2024

Ranvir Ranjith Shah

... Petitioner

Vs.

1. The Commissioner of Income Tax (Appeals),
National Faceless Appeal Centre,
New Delhi.
2. The Assistant Commissioner,
Non Corporate Circle 19 (1) Chennai,
Room No.604, 6th Floor,
Ayakar Bhawan Annexe Building,
No.121, Mahatma Gandhi Road, Nungambakkam,
Chennai.
3. The Deputy Commissioner of Income Tax,
Non Corporate Circle 19 (1) Chennai,
Room No.423A, IV Floor, Chennai Wanaparthi Block,
No.121, Mahatma Gandhi Road, Nungambakkam,
Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari to call for the records of the



W.P.No.23073 of 2024

order dated 10.07.2024 in ref.DIN & Letter No.ITBA/COM/F/17/2024-25/1066582731(1) in respect of the assessment year 2018-19 of the 2nd Respondent, quash the same and pass such further or other orders as this Court may deem fit and proper in the facts and circumstances of the case.

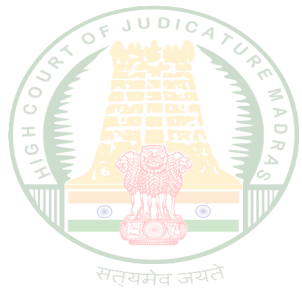
For Petitioner : Mrs.A.L.Gandhimathi
Senior Counsel
for Mr.L.Palanimuthu

For Respondent : Mr.S.Premalatha
Junior Standing Counsel
for Mr.V.Mahalingam
Senior Standing Counsel

ORDER

This writ petition has been filed by the petitioner challenging the order dated 10.07.2024 in Ref.DIN & Letter No.ITBA/COM/F/17/2024-25/1066582731(1) in respect of the assessment year 2018-19 of the 2nd Respondent.

2. Ms.S.Premalatha, learned Junior Standing Counsel takes notice on behalf of the respondent.



WEB COPY

3. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4. The learned counsel for the Petitioner submitted that his father Ranjith Popatial Shah (late) was a income tax assessee and he has been filing Income Tax returns every year without fail. While so, his father expired on 21.06.2018, even before the due date of filing the Income Tax Returns for the Assessment Year 2018-2019 and therefore the Petitioner filed Income Tax Return for the said Assessment Year. While so, a notice under Section 148 of the Income Tax Act, 1961 was issued to the Petitioner 23.03.2022 by the 1st Respondent, alleging that the Petitioner's father received a cash of Rs.14,58,00,000/- towards the sale of the land, for which the Petitioner submitted a reply 30.03.2022, stating that his father passed away on 21.06.2018 and he has paid capital gains for the assessment year 2017-18 and also paid the tax and he has not received any cash as mentioned in the notice and that apart all payments are made by cheques, which are evidenced by sale deeds. But, without accepting the reply made by the Petitioner, impugned assessment



W.P.No.23073 of 2024

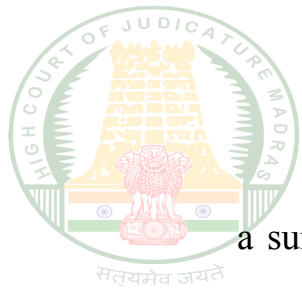
order dated 28.03.2024 was passed by the 2nd Respondent, demanding the tax for the aforesaid amount. Challenging the said order, an Appeal has been preferred along with application for stay and the 2nd Respondent dismissed the Application for stay, with the following observations:

"The Stay Petition filed by the assessee and the allegations/reasons furnished by assessee were duly perused. The reasons/allegations furnished by assessee/petitioner is bereft of any merits.

In view of the above, the assessee petitions for stay of demand is hereby rejected. The Assessee is requested to pay 20% of the demand immediately and file a fresh application for stay of balance demand of 80% of the demand.

Challenging the said order, the present Writ Petition has been filed. The learned counsel appearing for the Petitioner submitted that the 2nd Respondent erroneously rejected the stay application filed by the Petitioner and therefore the same is liable to be set aside.

5. The learned standing counsel appearing for the Respondents submitted that the Petitioner has not substantiated his case for receipt of



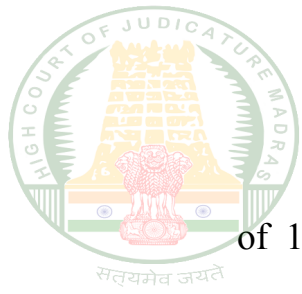
W.P.No.23073 of 2024

WEB COPY

a sum of Rs.14,58,00,000/- and hence the assessment order came to be passed and the 2nd Respondent, by observing that the case of the assessee does not come within the purview of the two conditions stipulated in instruction no. 1914 dated 31.07.2017 and the petitioner has not stated any financial difficulties, has rightly rejected the Application for stay filed by the Petitioner and therefore the same does not warrant any interference.

6. From the records, it is seen that the Petitioner's father passed away on 21.06.2018 and the 3rd Respondent issued notice alleging the receipt of a sum of Rs.14,58,00,000/- by the Petitioner's father and except the Annexure to the said notice, no proof was filed by the 2nd Respondent for the alleged demand.

7. Considering the aforesaid facts and circumstances of the case, this Court is inclined to set aside the impugned order subject to deposit



W.P.No.23073 of 2024

of 10% of the tax demand by the Petitioner. Accordingly, this Court

WEB COPY passes the following order:

(i) The order impugned herein is set aside on condition that the petitioner, shall deposit 10% of the disputed tax demand before the 2nd respondent within a period of ***four weeks*** from the date of receipt of a copy of this order.

(ii) On such payment made, the 2nd Respondent is directed to dispose of the Appeal on merits and in accordance of law. There shall be an order on stay of the assessment order, until the disposal of the Appeal.

Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

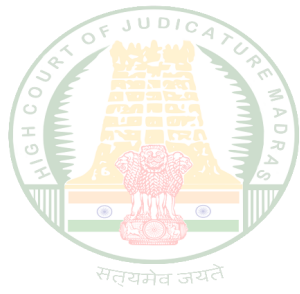
19.08.2024

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

arr

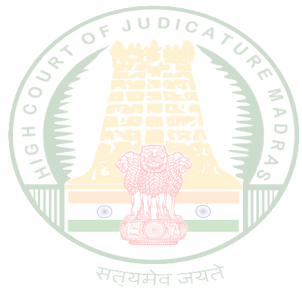


W.P.No.23073 of 2024

WEB COPY

To

1. The Commissioner of Income Tax (Appeals),
National Faceless Appeal Centre,
New Delhi.
2. The Assistant Commissioner,
Non Corporate Circle 19 (1) Chennai,
Room No.604, 6th Floor,
Ayakar Bhawan Annexe Building,
No.121, Mahatma Gandhi Road, Nungambakkam,
Chennai.
3. The Deputy Commissioner of Income Tax,
Non Corporate Circle 19 (1) Chennai,
Room No.423A, IV Floor, Chennai Wanaparthi Block,
No.121, Mahatma Gandhi Road, Nungambakkam,
Chennai.



WEB COPY



W.P.No.23073 of 2024

KRISHNAN RAMASAMY.J.,

arr

**W.P.No.23073 of 2024 &
W.M.P.Nos.25176 of 2024 & 25179 of 2024**

19.08.2024