BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.19987 of 2024
and
W.M.P.(MD)No.16961 of 2024

M/s.Poornima Textiles,
Represented by its Partner,
B.K.Pradish ... Petitioner

Vs.

1.Assessment Unit,
Income Tax Department,
National Faceless Assessment Centre,
2nd Floor, E-Ramp,
Jawaharlal Nehru Stadium,
New Delhi – 110 003.

2.The Income Tax Officer,
Ward-1,
Sivaraj Building Tower Junction Road,
Nagercoil – 629 001.

3.The Principal Chief Commissioner of Income Tax,
Main Building, 121 M.G.Road,
Nungambakkam,
Chennai – 600 034.

4.National Faceless Assessment Centre,
Income Tax Department,
2nd Floor, E-Ramp,
Jawaharlal Nehru Stadium,
New Delhi – 110 003. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records in order in DIN No.ITBA/AST/S/147/2023-24/1059037242(1) dated 19.12.2023 and consequential penalty order in DIN No.ITBA/PNL/F/271F/2024-25/1065879194(1) dated 20.06.2024, order in DIN No.ITBA/PNL/F/271(1)(b)/2024-25/1065609952(1) dated 12.06.2024 and order in DIN ITBA/PNL/F/271(1)(c)/2024-25/1065879096(1) dated 20.06.2024 for the assessment year 2015-2016 issued by the first respondent and quash the same as illegal and in violation of the principles of natural justice, without jurisdiction and barred by limitation as prescribed under Section 151A of the Income Tax Act, 1961.

For Petitioner : Mr.S.Karunakar

For Respondents : Mr.J.Parekh Kumar
Standing Counsel

ORDER

This Writ Petition is filed challenging the orders in DIN No.ITBA/AST/S/147/2023-24/1059037242(1) dated 19.12.2023 and consequential penalty order in DIN No.ITBA/PNL/F/271F/2024-25/1065879194(1) dated 20.06.2024, order in DIN No.ITBA/PNL/F/271(1)(b)/2024-25/1065609952(1) dated 12.06.2024 and order in DIN ITBA/PNL/F/271(1)(c)/2024-25/1065879096(1) dated 20.06.2024 for the assessment year 2015-2016 issued by the first respondent.

2. It was submitted by the learned counsel for the petitioner that the entire assessment is made on the basis of the alleged deposits made to the current account No. 0024073000025473 and 0024083000003079, with the South Indian Bank Limited. It was also submitted that the above account do not relate to the petitioner, instead it relates to M/s.Kamala Textiles.

3. Thus, the entire basis of the assessment order is on the basis of erroneous/non-existent facts, i.e., an enquiry which requires examination of disputed question of facts, which I think may not be appropriate while

exercising jurisdiction under Article 226 of Constitution of India. It is trite law that examination of disputed question of facts does not normally fall within the regime of Article 226 of the Constitution of India.

4. The learned Standing Counsel for the respondents would submit that these are issues which ought to be canvassed before the appellate authority.

5. At this juncture, the learned counsel for the petitioner seeks liberty of this Court to file an appeal.

6. Considering the above request, liberty is granted to the petitioner to file an appeal within a period of two weeks from the date of receipt of a copy of this order. If any such appeal is filed, the same shall be entertained, without any reference to limitation, subject to fulfilling all other conditions relating to appeal including pre-deposits if any, failing which the impugned order will stand revived.

7. In view of the above, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

22.08.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To:

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MOHAMMED SHAFFIQ, J.

Nsr

W.P.(MD)No.19987 of 2024

22.08.2024