



W.P.No.258 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 01.02.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.258 of 2023

&

WMP Nos.314 to 317 of 2024

Manjula Jaganathan Hariprasad

... Petitioner

vs

1. The Assessment Unit
Income Tax Department,
National e-Assessment Centre, Delhi,
E-Ramp, Jawaharlal Nehru Stadium,
Delhi-110 003.

2. The Income Tax Officer
Non Corporate Ward 10(1), Chennai
Income Tax Department,
No.121, Nungambakkam High Road,
Chennai 600 034.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari to call for the records of the Writ Petitioner on the file of the 1st Respondent to quash the impugned order u/s 147 read with section 144B of the Income Tax Act, 1961, dated 30.11.2023 in DIN:ITBA/AST/S/147/2023-24/1058348333(1) for the Assessment Year 2017-18.

For Petitioner : Mr.A.S.Sriraman



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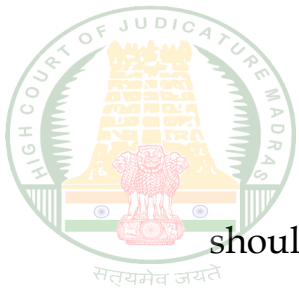
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For Respondents: Mrs.S.Premalatha
Jr. Standing Counsel

ORDER

The petitioner challenges an assessment order dated 30.11.2023 in respect of Assessment Year 2017-18.

2. The proceedings culminating in the impugned assessment order originated from the the return of income filed by the petitioner for Assessment Year 2017-18 on 11.08.2017. In the notice under Section 148 of the Income-tax Act, 1961, the respondents proposed three additions to the income disclosed in the return of income. The first addition was in relation to the difference between the purchase price and the guideline value of the immovable property purchased by the assessee. The second addition was in respect of amounts received as rent from M/s.Sriprop Structures P Limited and the third addition was in respect of a contractual receipt. The petitioner submitted a reply to the show cause notice on 25.11.2023 and provided an explanation with regard to each proposed addition. As regards the first proposed addition, it was also pointed out that the matter had been referred to the valuation officer of the Income-tax Department on 24.02.2023. It was further stated that the addition



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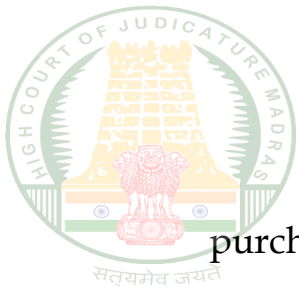
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should not be made without a waiting the valuation report. An explanation was also provided with regard to the proposed 2nd and 3rd additions and it was contended that such additions are not warranted.

3. By referring to the said reply, learned counsel for the petitioner submits that the impugned order is unsustainable. He submits that the respondents had a further four months in which to complete the assessment, whereas the impugned order was issued without waiting for the report of the valuation officer. As regards the 2nd and 3rd additions, he submits that the petitioner's reply was disregarded while confirming the additions.

4. Mrs.Premalatha, learned standing counsel for the respondents, submits that an appellate remedy is available and that the petitioner has approached this Court without availing the same. She also submits that the reply of the petitioner was considered but was found not satisfactory.

5. In the impugned order, as regards the difference between the



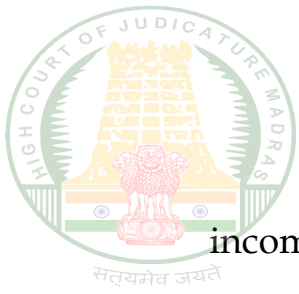
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purchase value and guideline value of the immovable property, is

concerned, it is recorded, in relevant part, as under:

“However, since the report of the valuation officer is still awaited, the difference amount of Rs.54,64,000/- is added to the income of the assessee for the year under consideration. If there is difference in the market value of the property purchased as accepted by the District Valuation Officer and the value taken by the FAO as per the sale deed, then the assessee make seek remedial action from the Ld. CIT(A)/ Jurisdictional Assessing Officer as per law. Hence, the difference amount of Rs.54,64,000/- being the difference of market value and consideration paid by the assessee is considered as income from other sources as per the provisions of section 56(2)(vii)(b) of the Act and is added back to the total income of the assessee. Penalty proceedings u/s 270A of the Act is also initiated against the assessee for under reporting of income in consequence of misreporting.”

6. From the above extract, it is evident that the Assessing Officer was fully conscious and aware of the fact that the report of the valuation officer was awaited. In spite of being aware of this fact, he proceeded to add the difference between the consideration specified in the sale deed and the guideline value as additional



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income and also initiated proceedings in respect of penalty. This approach is clearly unsustainable.

7. As regards the addition on account of rent receipts, the petitioner provided an explanation that rent was received towards a residential house property and that the income was duly disclosed. The petitioner further explained that tax had been wrongly deducted under Section 194IB instead of Section 194C of the Income-tax Act and that the petitioner should not be put to prejudice on that account. As regards the third addition, it was stated that the contractual receipt was Rs.12,94,735/-, which had been shown as business income. These explanations have been brushed aside as not satisfactory without providing any reasons for such conclusion.

8. For reasons set out above, the impugned order is liable to be and is hereby quashed. As a corollary, the matter is remanded for re-consideration by the Assessing Officer. The Assessing Officer is directed to await the valuation report before undertaking such re-consideration.



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9. This writ petition is disposed of on the above terms without any order as to costs. Consequently, the connected miscellaneous petitions are closed.

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Index : Yes / No

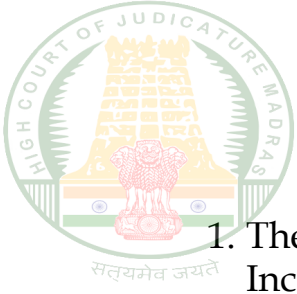
Internet : Yes / No

Neutral Citation : Yes / No

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To

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