



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2023

CORAM :

The HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.13473 of 2023
and
W.M.P.Nos.13147 & 13150 of 2023

Manas

.. Petitioner

VS

Income Tax Officer
Non-Corp Ward 17(2),
No.121, M.G.Road,
Nungambakkam,
Chennai – 600 034.

.. Respondent

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records of the respondent contained in its notice under Section 148(b) of the Income Tax Act, 1961 bearing ITBA/AST/F/148A(SCN)/2022-23/1051796236(1) dated 31.03.2023 and all proceedings in furtherance thereof including but not limited to the order passed under Section 148 A(d) of the Income Tax Act, 1961, bearing DIN & Notice No.ITBA/AST/F/148A/2023-24/1052060148(1) dated 13.04.2023 and notice issued by the respondent under Section 148 of the Income Tax Act, 1961, bearing ITBA/AST/148-1/2023-24/1052060943(1) dated 13.04.2023, for PAN : AAZFM5016B for AY 2019 – 20.



W.P.No.13473 of 2023

WEB COPY For Petitioner : Mr.Suhrith Parthasarathy
For Respondents : Dr.B.Ramaswamy
Senior Standing Counsel

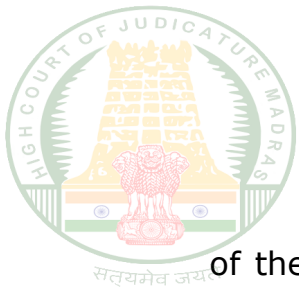
ORDER

The challenge in this writ petition is to proceedings for re-assessment under the Income-Tax Act, 1961 (in short, 'Act') for assessment year (AY) 2019 – 2020. The notices and orders assailed are notice under clause (b) of Section 148A dated 31.03.2023 and order under clause (d) of Section 148A dated 24.02.2023.

2. The primary and only argument is violation of principles of natural justice premised on the ground that the impugned order under section 148A(d) states at paragraph 3 the following:-

The above notice u/s 148A(b) was sent to the assessee's Email id jvjsurana@yhoo.co.in, was delivered by EMAIL on 31.03.2023 and the assessee was given 7 days time to furnish response. Till date the assessee has not furnished any reply to the above letter/notices.

3. The petitioner has not responded to the notice Under Section 148A(b) and in this context, my attention is drawn to the fact that the name of the web service provider, 'yahoo' has been mis-spelt as 'yhoo'. The petitioner maintains that it is not in receipt



W.P.No.13473 of 2023

of the notice under Section 148A(b), ostensibly for the reason that it was sent to an invalid / incorrect email id.

WEB COPY

4. The petitioner further states in the affidavit that order under Section 148A(d) was received by email on 13.04.2023 to id 'jvgsurana@gmail.com' and in course of submissions, the petitioner would make much of this fact. The point made is that, as the order has been forwarded to the gmail id, the assessing authority could well have issued notice to that id as well, instead of sending the same to an invalid email id.

5. Dr.Ramaswamy, learned Senior Standing Counsel, sought a short adjournment of a day to ascertain the factual position in regard to service of notice. He has today circulated a compilation that is revealing. A copy of the master profile of this petitioner on the website of the Income tax Department is furnished that contains the email id 'jvgsurana@yahoo.com'.

6. That apart, the compilation contains a screen shot of the 'sent mail' page of the assessing officer, that establishes that notice under Section 148A(b) has been sent to email id 'jvgsurana@gmail.com'. To be noted that the return filed for AY 2019 – 2020 contains the email id 'jvgsurana@gmail.com'.

7. The submissions of the petitioner as recorded in paragraphs 3 and 4, emphasis on the spelling error in 'yahoo' and the insistence



W.P.No.13473 of 2023

that no notice was sent to the gmail id are found not just to be misconceived, but mischievous.

8. In today's times of advanced technology, it becomes incumbent on the assesseees to supply proper credentials, including email id and mobile numbers to the Income-Tax Department. This is not the singular instance when this Court has had occasion to witness the confusion over multiple email ids that have been furnished by an assessee over the years.

9. In such circumstances, the causality is principles of natural justice as proper opportunity is often denied simply because notices are sent to (i) email ids that are no longer in use (ii) email ids of staff/accountants/chartered accountants who have created the profile of the assessee/file the income tax return and who are no longer in the employ/service of the assessee. It is high time that assesseees as well as the officials of the department devote attention to this aspect of the matter.

10. In the present case, this Court is of the considered view that the petitioner has not presented the facts in proper colour and has sought to take advantage of a technical mistake in the impugned order. This is wholly unappreciated and deprecated. The petitioner is hence put to terms and will remit a sum of Rupees One Lakh (Rs.1,00,000/-) to the Cancer Institute, Adayar, Chennai.



W.P.No.13473 of 2023

11. Writ petition is dismissed with costs. Connected miscellaneous petition are closed.

WEB COPY

28.04.2023

Index:Yes
Neutral Citation:Yes
ssm

To

The Income Tax Officer
Non-Corp Ward 17(2),
No.121, M.G.Road, Nungambakkam,
Chennai – 600 034.



WEB COPY



W.P.No.13473 of 2023

DR. ANITA SUMANTH,J.

ssm

W.P.No.13473 of 2023

28.04.2023