



2023:KER:73679

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

WEDNESDAY, THE 22ND DAY OF NOVEMBER 2023 / 1ST AGRAHAYANA, 1945

WP(C) NO. 33718 OF 2023

PETITIONER/S:

THYAGARAJAN PARAMESWARAN, AGED 78 YEARS
1/353 PARAMESWARAN VILLA, AROOR, ALLEPPEY,
REP BY SHINY T DAUGHTER, RESIDING AT SAME ADDRESS,
PIN - 688534

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

RESPONDENT/S:

- 1 INCOME TAX OFFICER, WARD 2, AAYAKAR BHAVAN, INCOME
TAX OFFICE , BEACH ROAD, ALAPUZHA, PIN - 688001
- 2 ADDITIONAL/JOINT/DEPUTY/ASSISTANT COMMISSIONER OF
INCOME TAX/ INCOME TAX OFFICER, NATIONAL E-
ASSESSMENT CENTRE : NEW DELHI, PIN - 110001
- 3 CENTRAL BOARD OF DIRECT TAXES
MINISTRY OF FINANCE, NORTH BLOCK, NEW DELHI, REP. BY
CHAIRMAN, PIN - 110001
- 4 GOVERNMENT OF INDIA, MINISTRY OF FINANCE, CENTRAL
SECRETARIAT, NORTH BLOCK, NEW DELHI, REP. BY
SECRETARY, PIN - 110001

OTHER PRESENT:

SRI.JOSE JOSEPH-SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22.11.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

**J U D G M E N T**

The present writ petition has been filed by the petitioner-assessee under the provisions of the Income Tax Act, 1961 (“IT Act”, for short) impugning the assessment order dated 22.4.2021, Ext.P2, for the assessment year 2018-19 and penalty orders, Exts.P3 and P4. Mainly two grounds have been urged while impugning the aforesaid orders: (i) the assessment order was finalised beyond the limitation prescribed under Section 153 of the IT Act, in as much as the assessment order is dated 22.4.2021 while the limitation for finalising the assessment was on 30.9.2020; and (ii) the petitioner was given only three days time vide the show cause notices dated 9.4.2021 and 17.4.2021, Exts.P8 and P9.

2. On the last date of hearing of this writ petition, Sri.Jose Joseph, learned Senior Standing Counsel for the Income Tax Department, was directed to get instructions on the point of limitation.



Today, Sri.Jose Joseph has produced two notifications dated 27.2.2021 and 27.4.2021 issued by the Central Board of Direct Taxes in exercise of the powers conferred under Section 3(1) of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020. That was the period of Covid-19 pandemic. Vide the first notification, the limitation for assessment or re-assessment under the IT Act and the time limit for completion of such action under Section 153 or Section 153B of the IT Act was extended upto 30.4.2021 and vide the second notification referred to above, the limitation was further extended till 30.6.2021.

3. In the present case, the assessment order is dated 22.4.2021 and therefore, the impugned assessment order is within the limitation as extended by the first notification dated 27.2.2021, i.e. up to 30.4.2021. Hence, in view of the notification No.S.O.966(E) dated 27.2.2021, I find no substance in the submission of the learned



counsel for the petitioner that the impugned assessment order is beyond the limitation prescribed under the statute.

4. In respect of the second submission, it may be noted that the petitioner was issued notices under Section 142(1) of the IT Act on 24.12.2019, 6.2.2020, 28.7.2020, 1.9.2020, 8.10.2020, 18.11.2020, 4.3.2021 and 24.3.2021. Though these notices were duly served on the petitioner, he neither responded to any of the notices, nor filed any reply thereto.

5. Show cause notice under Section 144 of the IT Act dated 9.4.2021, Ext.P8, was issued to the petitioner. The said show cause notice would also mention the clear dates, when the notices were issued to the petitioner under Section 142(1). Vide the said show cause notice, the petitioner was granted time for filing his response till 12.4.2021. The petitioner did not file any reply to the said show cause notice. Another show cause notice dated 17.4.2021, Ext.P9, was also issued to



the petitioner putting him on notice that, in case the petitioner failed to respond to the notice, his income would be assessed under Section 144 on the basis of the materials available before the assessing authority. By the said show cause notice dated 17.4.2021, the petitioner was afforded opportunity to file response till 20.4.2021. There is nothing on record to show that the petitioner applied for extension of time to file reply to the aforesaid two show cause notices, Exts.P8 and P9. The petitioner was issued as many as eight notices under Section 142(1) of the IT Act, before issuing the show cause notices. All the notices remain unanswered. Therefore, at this stage, the petitioner cannot take the ground that the petitioner was not afforded sufficient opportunity for filing reply to the show cause notices issued under Section 144 or to the notices under Section 142(1). It would have been a different case, if the petitioner asked for more time to file reply to the show cause notices in Exts.P8 and P9 and the



Authority denied the same. The petitioner did not respond to the said notices at all. In view thereof, I find that there has been substantial compliance of the principles of natural justice. Since the petitioner failed to respond to any one of the eight notices issued under Section 142(1) and two show cause notices issued under Section 144 of the IT Act, he cannot complain about violation of the principles of natural justice.

I find no merit in the present writ petition, which is hereby dismissed.

Pending interlocutory application, if any, in the present writ petition stands dismissed.

Sd/-
DINESH KUMAR SINGH
JUDGE



WP (C) NO. 33718 OF 2023

APPENDIX OF WP (C) 33718/2023

PETITIONER EXHIBITS

Exhibit P-1	MEDICAL CERTIFICATE/PRESCRIPTION IN RESPECT OF PETITIONER DTD 21.02.2023
Exhibit P-2	ASSESSMENT ORDER DT. 22.04.2021 FOR AY 2018.19 BY SECOND RESPONDENT
Exhibit P-3	PENALTY ORDER U/S 270A DT. 10.02.2021 FOR 2018.19
Exhibit P-4	PENALTY ORDER U/S 272A[1][D] DT. 17.02.2021 FOR 2018.19
Exhibit P-5	ARREAR NOTICE DT. 17.07.2023 ISSUED BY FIRST RESPONDENT
Exhibit P-6	STATEMENT OF INCOME RELATING TO AY 2018.19 UPLOADED ON 21.07.2018
Exhibit P-7	RETURN OF INCOME IN FORM ITR-2 FOR 2018.19
Exhibit P-8	SHOW CAUSE NOTICE DT. 09.04.2021 BY SECOND RESPONDENT
Exhibit P-9	SHOW CAUSE NOTICE DT. 17.04.2021 BY SECOND RESPONDENT