



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

TUESDAY, THE 26TH DAY OF MARCH 2024 / 6TH CHAITHRA, 1946

WP(C) NO. 11496 OF 2024

PETITIONER:

JAGADEESAN CHELLAPPAN ACHARY
AGED 68 YEARS, S/O. CHELLAPPAN ACHARY,
RESIDING AT 'GOURI KRIPA', T. C. 52/1118-6,
ANUGRAHA NAGAR, POOZHICUNNU, ESTATE P. O.,
THIRUVANANTHAPURAM, PIN - 695019.

BY ADVS.

SRI. SREEHARI INDUKALADHARAN
SRI. SETHU NANDAKUMAR
SMT. D. SMITHA
SRI. JAYASANKAR K.

RESPONDENTS:

- 1 INCOME TAX OFFICERM
OFFICE OF THE INCOME TAX , AAYAKAR BHAVAN,
1ST FLOOR, KOWDIAR P. O.,
THIRUVANANTHAPURAM, PIN - 695003.
- 2 THE ASSISTANT COMMISSIONER OF INCOME TAX,
OFFICE OF THE INCOME TAX DEPARTMENT,
NATIONAL FACELESS ASSESSMENT CENTRE,
DELHI, PIN - 110001.
- 3 ASSISTANT DIRECTOR OF INCOME TAX,
OFFICE OF THE INCOME TAX DEPARTMENT,
CENTRAL PROCESSING CENTRE, BENGALURU, PIN - 560500.
- 4 FEDERAL BANK LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR CUM CEO,
HEAD OFFICE, ALUVA BANK JUNCTION, METRO HEIGHTS,
BYPASS JUNCTION, ALUVA, ERNAKULAM, PIN - 683101.

BY ADVS.

SRI. P. G. JAYASHANKAR - SC
SRI. KEERTHIVAS GIRI - SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
26.03.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**DINESH KUMAR SINGH, J.**

W.P.(C) No. 11496 of 2024

Dated this the 26th day of March, 2024**JUDGMENT**

1. The petitioner, a senior citizen is an assessee under the provisions of the Income Tax Act, 1961. Petitioner was served with a notice dated 30.03.2021 by the 1st respondent under Section 148 of the said Act requiring him to file tax return for the assessment year 2013-14 as the 1st respondent has been of the opinion that the petitioner's income had escaped assessment.

2. Petitioner is a practicing Advocate. The petitioner was issued another notice under Sub-section (1) of Section 142 of the Act stating that total interest from income of the petitioner was Rs. 75,73,122/- and total professional income of the petitioner was Rs. 4,000/- during the financial year 2012-13. The petitioner was directed to produce books of accounts, details of source of income, bank account statements and income tax returns for the assessment year 2013-14 corresponding to the financial year 2012-13.

3. The learned Counsel for the petitioner submits that the amount of Rs. 75,73,122/- as interest income of the petitioner was a mistake on the part of the Bank and the Bank had issued a letter and the 26 AS Form has been rectified by the Bank. The Bank has issued a letter and the 26 AS



Form has been rectified by the Bank. The fact was also communicated vide the letter dated 18.04.2022 in Exhibit P-9. Despite the aforesaid communication, the assessment order was completed in Exhibit P-2, against which the petitioner has filed the appeal. The petitioner's rectification application has been rejected on the ground that since the petitioner has filed the appeal, the rectification application is not maintainable. Considering the fact that the Bank has already modified Form 26 AS and letter has been issued in Exhibit P-9 which would suggest that no TDS was deposited by the Bank and no interest income of Rs. 75,73,122/- accrued to the petitioner, it would be appropriate to dispose of this writ petition with direction to the Faceless Appellate Centre to consider and dispose of Exhibit P-11 appeal of the petitioner expeditiously, preferably within period of two months. While considering the appeal, the appellate authority should take into account the modified Form 26 AS in Exhibit P-10. Till the disposal of the appeal, it is provided that no coercive measures to be taken against the petitioner for enforcing the demand of tax made.

With the aforesaid directions, the present writ petition is hereby disposed of.

Sd/-
DINESH KUMAR SINGH
JUDGE

**APPENDIX OF WP(C) 11496/2024****PETITIONER EXHIBITS**

- EXHIBIT P1** A TRUE COPY OF THE NOTICE ISSUED UNDER SECTION 148 OF INCOME TAX ACT TO THE PETITIONER DATED 30/03/2021
- EXHIBIT P2** A TRUE COPY OF THE NOTICE NO.ITBA/AST/F/142(1) 2021-22/1036857929 (1) ISSUED TO THE PETITIONER DATED 12/11/2021
- EXHIBIT P3** A TRUE COPY OF THE REPRESENTATION SEND BY THE PETITION TO THE 1ST RESPONDENT THROUGH EMAIL COMMUNICATION DATED 09/12/2021
- EXHIBIT P4** A TRUE COPY OF THE SHOW CAUSE NOTICE UNDER SECTION 144 DATED 25/03/2022
- EXHIBIT P5** A TRUE COPY OF THE DEMAND NOTICE DATED 30/03/2022
- EXHIBIT P6** TRUE COPY OF THE PENALTY DROPPING ORDER ISSUED BY THE 1ST RESPONDENT DATED 05.09.2022
- EXHIBIT P6(A)** TRUE COPY OF THE 2ND PENALTY DROPPING ORDER ISSUED BY THE 1ST RESPONDENT DATED 05.09.2022
- EXHIBIT P7** A TRUE COPY OF THE DOWNLOADED FORM 26 AS TDS TRACES ISSUED BY THE I T DEPARTMENT
- EXHIBIT P8** A TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 04/04/2022
- EXHIBIT P8(A)** A TRUE COPY OF THE COMPLAINT DATED 06/04/2022
- EXHIBIT P9** A TRUE COPY OF EMAIL COMMUNICATION DATED 18/04/2022
- EXHIBIT P10** A TRUE COPY OF THE UPDATED 26AS TDS IN RESPECT OF THE PETITIONER, DOWNLOADED FROM THE SITE OF THE IT DEPARTMENT SHOWING ZERO BALANCES
- EXHIBIT P11** A TRUE COPY OF THE APPEAL MEMORANDUM FILED BY THE PETITIONER DATED 23.04.2022



- EXHIBIT P12 A TRUE COPY OF THE LEGAL NOTICE DATED 23/05/2023
- EXHIBIT P13 A TRUE COPY OF THE MAIL COMMUNICATION OF THE COVERING LETTER DATED 22.06.2023
- EXHIBIT P14 A TRUE COPY OF THE LETTER NO. ITBA/COM/F/17/2023-24/1054465829(1) DATED 20/07/2023
- EXHIBIT P15 A TRUE COPY OF THE MEDICAL RECORDS OF THE PETITIONER
- EXHIBIT P16 A TRUE COPY OF THE REPLY ISSUED BY THE 1ST RESPONDENT
- EXHIBIT P17 A TRUE COPY OF THE ORDER ISSUED BY THE APPELLATE AUTHORITY
- EXHIBIT P18 A TRUE COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT
- EXHIBIT P19 A TRUE COPY OF THE STAY ORDER DATED 02.05.2023 ISSUED BY THE 1ST RESPONDENT
- EXHIBIT P20 A TRUE COPY OF THE LETTER REFLECTING THE REFUND
- EXHIBIT P21 A TRUE COPY OF THE EMAIL REQUEST FROM THE INCOME TAX DEPARTMENT
- EXHIBIT P22 A TRUE COPY OF THE EMAIL INTIMATION REGARDING THE RECOVERY
- EXHIBIT P23 A TRUE COPY OF THE LETTER REFLECTING THE REFUND
- EXHIBIT P24 A TRUE COPY OF THE EMAIL INTIMATION SHOWING THE PROPOSED ADJUSTMENT
- EXHIBIT P25 A TRUE COPY OF THE EMAIL INTIMATION REGARDING THE RECOVERY
- EXHIBIT P26 A TRUE COPY OF THE CHALLAN RECEIPT
- EXHIBIT P27 A TRUE COPY OF THE REPLY FROM THE 1ST RESPONDENT DATED 10.11.2023