



2024:KER:82823

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

THURSDAY, THE 7TH DAY OF NOVEMBER 2024 / 16TH KARTHIKA, 1946

WP(C) NO. 25312 OF 2024

PETITIONER:

SURESH YEZHUVATH,
AGED 54 YEARS,
DEVIPRANAM, THANKAPPA GARDEN, MANAPPULLIKKAVU,
PALAKKAD, PIN - 678013

BY ADVS.
K.KRISHNA
ACHYUTH MENON

RESPONDENTS:

- 1 THE INCOME TAX OFFICER,
WARD 5, INCOME TAX DEPARTMENT, PALAKKAD, PIN - 678001.
- 2 THE COMMISSIONER OF INCOME TAX (APPEALS),
INCOME TAX DEPARTMENT, SAKTHAN THAMPURAN NAGAR,
THRISSUR, PIN - 680001.
- 3 NATIONAL FACELESS APPEAL CENTRE,
DELHI, REPRESENTED BY THE COMMISSIONER OF INCOME TAX
(APPEALS), PIN - 110001.

BY ADVS.
SRI.CHRISTOPHER ABRAHAM, SR.SC
SRI.P.R.AJITH KUMAR, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
07.11.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



JUDGMENT

The petitioner has approached this Court seeking the following reliefs:-

- (i) To quash Ext.P3 order issued by the 3rd respondent by the issue of a writ of certiorari or such other writ or order or direction.*
- (ii) To grant the petitioner such other incidental reliefs including the costs of these proceedings.*

2. The petitioner suffered Ext.P1 order of assessment for the assessment year 2012-13 under the provisions of the Income Tax Act, 1961. The petitioner preferred an appeal before the 1st Appellate Authority. Though the appeal was originally filed before the 2nd respondent, the same has been migrated to the National Faceless Appeal Scheme and was later considered by the 3rd respondent. According to the petitioner, the petitioner did not receive the notices of posting of the appeal and therefore could not appear and contest the matter before the 1st Appellate Authority. The petitioner is thus before this Court seeking to set aside the order of the 1st Appellate Authority and to provide to the petitioner a chance to contest the matter before the 1st Appellate Authority.

3. The learned counsel appearing for the petitioner



submits that more than 20% of the demand in Ext.P1 has already been remitted by the petitioner.

4. The learned Standing Counsel appearing for the Income Tax Department vehemently opposes the grant of any relief to the petitioner. It is submitted that the case of the petitioner that he did not receive notice of the hearing of the appeal appears to be improbable as the notices were issued in the two e-mail ID's provided by the petitioner. It is submitted that the case of the petitioner that e-mails sent by the Appellate Authority were in the 'spam' folder cannot be correct and there is no material produced to show that the notices issued were received in the 'spam' folder and not in the main folder.

5. Having heard the learned counsel appearing for the petitioner and the learned Senior Standing Counsel appearing for the Income Tax Department, I am of the view that one final opportunity can be given to the petitioner to contest the matter before the 3rd respondent. I take this view on account of the fact that this is a case where the petitioner had initially filed the appeal before the 2nd respondent and the appeal had been migrated to the National Faceless Appeal Scheme on introduction of that scheme.

Therefore, this writ petition is allowed by setting aside



Ext.P3 order and directing that the appeal filed by the petitioner against Ext.P1 order be restored to the file of the 3rd respondent, who shall pass fresh orders, after affording to the petitioner an opportunity of being heard. The petitioner shall update his e-mail ID on the Income Tax portal, if so advised, within a period of three days from the date of receipt of a certified copy of this judgment. The petitioner will also regularly check his e-mail ID (as updated on the portal) for any notice issued by the Appellate Authority. If the petitioner has paid 20% of the demand in Ext.P1, further recovery proceedings pursuant to Ext.P1 shall remain suspended till a fresh decision is taken on the appeal by the 3rd respondent.

Sd/-
GOPINATH P.
JUDGE

DK



APPENDIX OF WP(C) 25312/2024

PETITIONER EXHIBITS

Exhibit P1 **TRUE COPY OF ASSESSMENT ORDER ISSUED BY
THE 1ST RESPONDENT FOR THE YEAR 2012-13
DTD. 27-03-2015**

Exhibit P2 **TRUE COPY OF APPEAL FILED BY THE
PETITIONER BEFORE THE 2ND RESPONDENT
DTD. 24-04-2015**

Exhibit P3 **TRUE COPY OF ORDER ISSUED BY THE 3RD
RESPONDENT DTD. 15-12-2023**

RESPONDENT EXHIBITS

Exhibit R1(a) **COMMUNICATION FROM THE NATIONAL FACELESS
APPEAL CENTRE**