

Burden lies on Assessee to Prove no wilful intention not to file Income Tax Return

Fact of the Case

1. In the present problem Raman Krishna Kumar is the assessee
2. The assessee had taxable income for the Financial Year 2012 – 2013 / Assessment Year 2013 – 2014, had not filed the Annual Return as mandated under Section 139[1] of the Act, 1961, nor under the extended time under Section 139[4] of the said Act.
3. It had been stated that the petitioner herein had received substantial income in the form of salary amounting to Rs.68,71,731/- and had also indulged in high end transactions with respect to purchase and sale of mutual funds and with respect to credit card transactions.
4. The respondent contended that owing to non-filing of the Income Tax Returns, suspicions had arisen over the source of funds for such transactions. It had also been contended that several Show Cause Notices had been issued, but there was no reply by the petitioner herein. Finally, the petitioner had condescended to give a reply on 02.05.2016 for the Show Cause Notice dated 26.04.2016. The respondent contended that the petitioner had deliberately not filed the Income Tax Returns within the stipulated period
5. Mr.Naveen Kumar Murthi, learned counsel for the petitioner pointed out that the petitioner was not able to file the Returns owing to the fact that the petitioner was under the bona fide impression that his erstwhile employer, namely, ITW India Limited, where he was working as General Manager [Automotive Group] during the years 2012-2014, would have filed the Tax Returns in the normal course. Learned counsel stated that the income of the petitioner for the Financial Year 2012 – 2013 was Rs.45,07,595/-, but, there had been a mistake in Form 26AS filed by the Company on behalf of the petitioner wherein the income was entered as Rs.68,71,731/-. It was also stated by the counsel that the petitioner had paid tax amounting to Rs.10,21,101/-. It was also pointed out that the petitioner had, thereafter left the said Company and he was not aware of the mistake which had crept in Form 26AS and only when notices had been issued, did the petitioner come to know about this particular mismatch

Decision of the Case

1. The single judge bench of Justice C.V.Karthekeyan held that Court cannot presume that the petitioner herein is innocent of any of the offences complained. It is for the petitioner to establish such innocence.
2. The platform for establishing such innocence is the Court where the trial is to be conducted and in the present case, that particular Court is the Court of the Additional Chief Metropolitan Magistrate/EO-I, Egmore, Chennai.
3. The court said that “A direction is given to the learned Additional Chief Metropolitan Magistrate/EO-I, Egmore, Chennai, to commence trial and to complete the same on or before 31.01.2022. The petitioner is directed to cooperate in the trial process