

HC dismissed writ for transfer of case to new officer as old officer had already passed order of assessment

Summary – The High Court of Madras in a recent case of D. Ramagopal, (the Assessee) held that where assessee filed a writ petition seeking transfer of his assessment files from first respondent and entrust same to some other officer on ground that entire proceedings had been initiated by first respondent with mala fide intention on basis of a bogus fax message, since assessee had already raised said objection before appellate authority, petition filed by him was to be dismissed

Facts

- The assessee filed instant petition seeking to transfer his assessment files from the first respondent and entrust the same to some other officer.
- The assessee's case was that the entire proceedings had been initiated by the first respondent with *mala fide* intention by relying upon a bogus fax message alleged to have been sent by one 'P' to the second respondent.
- The revenue resisted the petition by pointing out that at the time when the petition was filed, the order of assessment had already been passed and communicated to the assessee.

Held

- From the materials placed on record, two factors are to be taken note of before considering as to whether the prayer sought for by the assessee could be acceded. The first is that the assessee has sought for a direction to transfer his cases pertaining to the assessment proceedings for the assessment years 2008-09 to 2014-15 to some other officer instead of the first respondent. However, the fact remains, the first respondent had concluded proceedings and passed an order of assessment, which has been communicated to the assessee and the assessee has filed appeals before the Commissioner (Appeals). Thus, the assessment proceedings having already been concluded and the assessee having received the copies of the assessment orders and filed appeals against such orders, the question of issuing a direction to transfer the case cannot be considered.
- The second aspect which has to be seen is whether the assessee's contention that the letter sent by 'P' is a genuine document or a false and fabricated document, has to be examined at this juncture. On a perusal of the grounds of appeal filed by the assessee before the Appellate Authority against the assessment order, the assessee had already raised a ground stating that Assessing Officer erred in relying upon a bogus fax and letter which had no evidentiary value. Thus, the assessee having raised issue before appellate authority as one of grounds of challenge to assessment order, same could not be decided in instant writ petition in the light of the prayer sought for.
- Hence, for all the above reasons, the assessee has not made out any case for granting the relief sought for. Accordingly, the writ petition fails and it is dismissed.