

HC says no to filing of I-T returns without Aadhaar

Accepts ASG's contention that waiver limited to certain transactions

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Making a quick course-correction against an order passed by it on October 31 permitting an advocate to file income tax returns without quoting her Aadhaar number, the Madras High Court on Tuesday rejected a similar plea made by another I-T assessee after finding that the Supreme Court had not dispensed with the requirement of Aadhaar for filing of I-T returns.

Justice T.S. Sivagnanam dismissed a writ petition filed by Thiagarajan Kumara-raja after concurring with Additional Solicitor-General (ASG) G. Rajagopalan that the apex court had dispensed with Aadhaar number only for transactions such as sale or purchase of immovable property, opening of a demat

account and others as listed under Rule 114B of the I-T Rules of 1962. The judge pointed out that Section 139AA (1) of the Income Tax Act of 1961 requires every person who is eligible to obtain Aadhaar number to quote the number in the return of income. A proviso to the Section stated that those who are yet to be allotted Aadhaar number should mention the enrolment ID furnished at the time of submitting the Aadhaar application form.

Similarly, Section 139AA (2) of the Act made it mandatory for every person who had been allotted a Permanent Account Number (PAN) by the I-T department to obtain an Aadhaar number too and intimate it to the authorities concerned. The provision also stated that the PAN would be deemed to be in-

valid if the income tax assesses fail to provide their Aadhaar number to the I-T officials.

Partial stay

When the validity of Section 139AA was challenged before the Supreme Court in Binoy Viswam's case, the apex court passed an order on June 9 this year virtually upholding the legal provision. Yet, the matter was referred to a Constitution Bench for testing its validity on the touchstone of Article 21 of the Constitution, including the debate around the right to privacy and human dignity.

In the meantime, the apex court said that a partial stay should be ordered since failure to seed PAN with Aadhaar would lead to serious consequences such as in-

validation of PAN. "Those already enrolled under the Aadhaar scheme would comply with the requirement of sub-section (2) of Section 139AA of the Act. Those who still want to enrol are free to do so. However, the PAN cards of those assesseees who are not Aadhaar card holders and do not comply with the provision of Section 139AA (2), be not treated as invalid for the time being. It is only to facilitate other transactions which are mentioned in Rule 114B of the Rules," the SC had observed.

"Therefore, to state that the partial stay granted by the Supreme Court would enure to the benefit of the writ petitioner even for filing income tax returns is a plea which is not sustainable and is liable to be rejected," Mr. Justice Sivagnanam said.