IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.Nos.7929 & 7932 of 2022
and W.M.P.Nos.7924 to 7927 of 2022

M/s. PayPal India Pvt. Ltd.,
Rep. by its authorized signatory,
334, Block A, Futura IT Park,
Rajiv Gandhi Salai, Sholinganallur,
Kanchipuram - 600 119. ...Petitioner in both W.Ps

Vs

1. Additional / Joint / Deputy/
   Assistant Commissioner of Income Tax/
   Income Tax Officer
   National Faceless Assessment Centre
   New Delhi.

2. Assistant Commissioner of Income Tax
   Circle 1 LTU Wanaparthy Block,
   No.121, Mahatma Gandhi Road, Nungambakkam,
   Chennai - 600 034. ...Respondents in both W.Ps

Prayer in W.P.No.7929 of 2022: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records of the 1st respondent pertaining to Assessment order dated 28.03.2022 passed by the 1st Respondent herein in relation to reassessment proceedings of the petitioner for Assessment year 2014-15, bearing DIN No. ITBA/AST/S/147/2021-22/1041876107 (1), and quash the same.

Prayer in W.P.No.7932 of 2022: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records of the 1st respondent pertaining to Assessment order dated 28.03.2022 passed by the 1st Respondent herein in relation to reassessment proceedings of the petitioner for Assessment year 2016-17, bearing DIN No. ITBA/AST/S/147/2021-22/1041860013(1), and quash the same.

For Petitioner : Mr.Srinath Sridevan
(in both W.Ps)

For Respondents : Mrs.Hema Muralikrishnan
Senior Standing Counsel
(in both W.Ps)

COMMON ORDER

Heard Mr.Srinath Sridevan, learned counsel for the petitioner and Mrs.Hema Muralikrishnan, learned Senior Standing Counsel for the respondents.

2.These writ petitions relate to the Assessment Years 2014-15 and 2016-17 respectively.

3.In order to reopen the assessment for the respective Assessment Years under Section 147 of the Income Tax Act, 1961 [in short 'the Act'], notices under Section 148 of the Act were issued, followed by the further procedure to be adopted by both the assessee as well as the Revenue and ultimately on 27.03.2022, Show Cause Notices were issued as to why the proposed variations should not be made, where, the Revenue directed the assessee to submit their response through the registered e-filing account at www.incometax.gov.in by 23:59 hours of 28.03.2022.

4.In response to the said notices dated 27.03.2022, when the petitioner / assessee made an attempt to upload the reply, the web portal did not allow the assessee as it was closed by 28.03.2022 at 18:50 and 18:52 hours respectively, for which, evidences i.e., the screen shot print outs have been filed in the typed set of papers.

5.Thereafter, the assessment order has been passed in respect of W.P.No.7932 of 2022, which is impugned herein under Section 147 read with Section 144B of the Act on 28.03.2022 at 23:32 hours IST that means well before the time granted to the petitioner to reply i.e., 23.59 hours, the very assessment order itself was passed at 23:32 hours, that too by closing the web portal from uploading the reply by the assessee by 18:52 hours on 28.03.2022. In respect of W.P.No.7929 of 2022, the web portal was closed by 18:50 hours on 28.03.2022 itself and the assessment order though passed on 28.03.2022, it has been signed on the next day i.e., on 29.03.2022 at 07:14 hrs IST.

6.Thus, the evidences would show clearly that the time granted to the petitioner to reply was not made fully available to the petitioner to utilize and in fact even before the closing time of filing the reply, the very impugned assessment orders were passed. On that ground itself, it can easily be construed that the principles of natural justice has been violated. Therefore, on that ground, this Court is inclined to set aside these orders and remit the matter back to the respondents for reconsideration.

7.Accordingly, the following orders are passed in these writ petitions:

(i) That the respective impugned orders of assessment are set aside and the matters are remitted back to the respondents for reconsideration. While reconsidering the same, a fresh show cause notice may be issued by the Revenue to the petitioner / assessee, giving a clear cut time limit, not less than atleast one week to the petitioner to reply and after completing the time, based on the reply if any to be supplied or filed by the petitioner, thereafter, considering the same, orders of assessment may be passed by the respondents.

8.With these observations and directions, both the writ petitions are ordered accordingly. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional / Joint / Deputy/
   Assistant Commissioner of Income Tax/
   Income Tax Officer
   National Faceless Assessment Centre
   New Delhi.

2. The Assistant Commissioner of Income Tax
   Circle 1 LTU Wanaparthy Block,
   No.121, Mahatma Gandhi Road, Nungambakkam,
   Chennai - 600 034.

+2cc to Mr.Srinath Sridevan, Advocate, S.R.No.22097, 22096

+1cc to M/s.Hema Muralikrishnan, Advocate, S.R.No.22004

W.P.Nos.7929 & 7932 of 2022

MT(CO)
RGA(28/04/2022)