IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition Nos.10374, 10376 and 10378 of 2022
and W.M.P.Nos.10092,10093, 10094, 10095, 10099
and 10100 of 2022

M/s.Rattha Holding Company Private Limited
Represented by its Director Mr.C.Sakthivel
No.51, 6th Floor, Tower C
Tek Meadows, Rajiv Gandhi Salai
Sholinganallur, Chennai – 600 119.
…. Petitioner in all W.Ps.

-Vs-

1.The Additional / Joint / Deputy / Assistant
Commissioner of Income Tax / Income Tax
Officer, National e-assessment Centre
Delhi.

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

Prayer in W.P.No.10374/2022 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records on the file of the respondent and quash the impugned order in ITBA/ AST/ S/ 147/ 2021-22/ 1042158383(1) dated 30.03.2022 under section 147 r/w Section 144B of the Income Tax Act 1961 passed by the 1st respondent as illegal and not in accordance with law.

Prayer in W.P.No.10376/2022 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records on the file of the respondent and quash the impugned order in ITBA/ AST/ S/ 147/ 2021-22/ 1042178250(1) dated 30.03.2022 under section 147 r/w Section 144B of the Income Tax Act 1961 passed by the 1st respondent as illegal and not in accordance with law.

Prayer in W.P.No.10378/2022 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of

Certiorari calling for the records on the file of the respondent and quash the impugned order in ITBA/ AST/ S/ 147/ 2021-22/ 1042184066(1) dated 30.03.2022 under section 147 r/w Section 144B of the Income Tax Act 1961 passed by the 1st respondent as illegal and not in accordance with law.

In All W.Ps

For Petitioner	:	Mr.R.Sivaraman
For Respondents	:	Mr.D.Prabhu Mukunth Arunkumar Junior Standing Counsel

C O M M O N   O R D E R

In respect of the assessment years 2014-15, 2016-17 and 2017-18, in order to reopen the assessment under Section 147 of the Income Tax Act, 1961 (In short 'the Act'), notices were issued under Section 148 of the Act followed by the assessment proceedings. In between notices under Section 143(2) as well as Section 142(1) of the Act were issued by the Revenue, which was responded to by the petitioner.

2. Ultimately, show cause notices were issued on 25.03.2022 giving time only for 24 hours ie., till 26.03.2022. Within the said short period, though adjournment was sought for by the petitioner, as there was no reply from the Revenue regarding any adjournment, as an abundant caution on 26.03.2022 itself the petitioner has given a reply and the same was uploaded by the petitioner in the web portal of the Revenue. On the very next day ie., on 27.03.2022 the petitioner has sought for personal hearing by way of video conference through the web portal of the Revenue.

3. The said request made by the petitioner, having been considered, was responded by the Revenue on 27.03.2022 stating that, three different time slots would be given to the petitioner for three assessment years respectively.

4. On 30.03.2022, the petitioner received three emails. In respect of assessment year 2014-15 email was received at 16:30 Hrs fixing the personal hearing video conference at 16:59 Hrs. In respect of assessment year 2016-17, email was received at 15:30 Hrs fixing the personal hearing video conference at 15:45 Hrs and for assessment year 2017-18, email was received at 15:30 Hrs fixing the personal hearing video conference at 18:00 Hrs.

5. In view of this shortest time slot given from the time of communication and the time fixed for the video conference for

the three assessment years referred to above, the petitioner was not able to participate in the video conference. However, on 30.03.2022 ie., on the same day at 20:54 Hrs the assessment orders were passed in all the three cases. Challenging the same, the present writ petitions have been filed.

6. Mr.R.Sivaraman, learned counsel appearing for the petitioner canvasses these points and states that, the said short duration provided for video conference would amount to violation of principles of natural justice and therefore the impugned orders are vitiated.

7. Heard Mr.D.Prabhu Mukunth Arunkumar, learned Junior Standing Counsel who would point out that, at least in two cases out of the three, having noticed the time slot the petitioner also has responded. Therefore, it cannot be stated that the petitioner has not availed the time slot given by the Revenue for video conference. Moreover, since the last date to complete the assessment ie., on or before 31.03.2022 was fast approaching, the Revenue had no other option except to give short duration for personal hearing by way of video conference. Therefore, it cannot be stated the Revenue has violated the principles of natural justice.

8. I have considered the submissions made by the learned counsel on either side and have perused the materials placed on record.

9. The time slot given for personal hearing video conference for three cases have been referred above, which shows that there was no breathing time to the petitioner to respond to the video conference and hence, this Court feels that it amounts to violation of principles of natural justice. Therefore, only to give one more chance of personal hearing for the petitioner in advance, the matter can be remitted back to the Revenue for reconsideration.

10. In that view of the matter, this Court is inclined to dispose of these writ petitions with the following order.

- The respective impugned orders are set aside and the matters are remitted back to the Revenue for reconsideration.

- While reconsidering the same, the time slot for personal hearing through video conference can be given by giving at least 4 to 7 days advance notice to the assessee with a gap of one day each in respect of each of the assessment years in order to enable the assessee to respond effectively.

- Such a communication shall be made in advance giving at least four clear days notice to the assessee and after giving such chance of personal hearing through video conference, it is open to the Revenue to proceed further and pass final orders of assessment.

- In this process, it is open to the petitioner to upload written submissions in respect of each of the assessment years referred to above.
- It is also made clear that, for the aforesaid purpose the web portal of the Revenue shall be kept open enabling the assessee to have an easy access to upload the written submissions / documents, if any.

11. With the above directions and observations, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

KST
To
1.The Additional / Joint / Deputy / Assistant
Commissioner of Income Tax / Income Tax
Officer, National e-assessment Centre
Delhi.

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

+1 cc to Mrs.Hema Muralikrishnan, Advocate Sr.NO. 29223

W.P.Nos.10374, 10376
and 10378 of 2022

AJS(CO)
A.SK(13/07/2022)