IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.10.2022

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.28020 of 2022 &
WMP.Nos.27315, 27318, 27323 & 27324 of 2022

Sethypathy Rajkumar ... Petitioner

Vs

1.The Assessment Unit,
Income Tax Department,
National e-Assessment Centre, Delhi E-Ramp,
Jawaharlal Nehru Stadium, Delhi - 110 003.

2.The Principal Commissioner of Income Tax,
Chennai, Income Tax Department,
No.121, Nungambakkam High Road,
Chennai - 600 034. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the writ petitioner company on the file of the first respondent to quash the impugned order dated 28.09.2022 passed u/Section 143(3) read with Section 144B of the Act for the Assessment Year 2020-2021 in DIN: ITBA/AST/S/143(3)/2022-2023/1046046586(1).

For Petitioner : Mr.A.S.Sriraman

For Respondents : Mrs.Hema Muralikrishnan,
Senior Standing Counsel.

ORDER

Mrs.HemaMuralikrishnan, learned Senior Standing Counsel accepts notice for the respondents and is armed with instructions to enable a final disposal of this matter, even at the stage of admission.

2. A perusal of the impugned order and the procedure followed prior to the passing of the same, persuade me to accept the contention that there has been violation of principles of natural justice in this case. The petitioner has opted for a hearing by video conference, for which opportunity was granted vide notice dated 21.09.2022, granting 24 hours for personal hearing on 22.09.2022 at 4:43 p.m.

3. A link was also forwarded to the petitioner. The very next day, the petitioner had uploaded a request for accommodation on medical grounds and the reason set out is as follows:

> *'The spouse of the Assessee has undergone major eye surgery and the Assessee is attending to her. Kindly push off the video conferencing scheduled for this evening by one day tomorrow. Thank you.'*

4. This request, in my view, is a legitimate request, which has neither been accepted nor rejected. Instead, the Assessing Authority has proceeded to pass an order dated 28.09.2022 finalising the assessment, impugned in this Writ Petition.

5. The narration as above makes it clear that the procedure followed by the authority is contrary to established norms. If at all the authority was of the view that the request for adjournment ought to have been rejected, such rejection ought to have been communicated to the petitioner, which has not been done in this case.

6. The impugned order of assessment dated 28.09.2022 is thus set aside. The petitioner shall be heard, for which a link for personal hearing shall be forwarded, within a period of two (2) weeks from date of receipt of a copy of this order and an order of assessment passed de novo, within a period of four (4) weeks from date of conclusion of personal hearing.

7. The Writ Petition is allowed in the above terms. No costs. Connected Miscellaneous Petitions are closed.

20.10.2022

Sl
Index : Yes / No
Speaking Order / Non Speaking Order

To

1.The Assessment Unit,
Income Tax Department,
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Jawaharlal Nehru Stadium, Delhi - 110 003.

2.The Principal Commissioner of Income Tax,
Chennai, Income Tax Department,
No.121, Nungambakkam High Road,
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Dr.ANITA SUMANTH, J.

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