IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.10.2022

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.27609 of 2022
and WMP Nos.26876 and 26877 of 2022

M/s.North Chennai Power Company Limited
rep. By Director
K.Mathiyalagan

... 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 – 4 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 26.09.2022 passed under Section 143(3) read with Sectino 144B of the Act for assessment year 2020-21 in DIN:ITBA/AST/S/143(3)/2022-23/1045983102(1).

For Petitioner : Mr.A.S.Sriraman
For Respondents : Mr.A.P.Srinivas
Senior Standing Counsel

ORDER

Mr.A.P.Srinivas, learned Senior Standing Counsel accepts notice for the respondents and is armed with instructions to proceed with the matter finally even at this juncture. Hence, by consent of both learned counsel, this Writ Petition is disposed finally even at the stage of admission.

2. The petitioner has challenged an order of assessment dated 26.09.2022 passed under the provisions of the Income Tax Act, 1961 (in short 'Act') for assessment year 2020-21. The only ground argued relates to the violation of principles of natural justice.

3. Notice under Section 143(2) and questionnaire under Section 142(1) of the Act had been issued on 29.06.2021 and 14.12.2021 respectively and the petitioner had responded to the same on 20.12.2021. A show cause notice was issued on 19.03.2022 setting out certain assessment proposals that the petitioner was to comply with, by 21.03.2022.

4. Admittedly, there was a delay of few days, but the reply filed on 25.03.2022 has been taken note of by the assessing authority. Thereafter, the petitioner has also filed an additional reply since the portal enabled the same, on 23.08.2022, which was not triggered by any prior notice. This reply has not

been taken note of by the authority. Also, admittedly, the petitioner has not been afforded a personal hearing.

5. No doubt, the petitioner does not appear to have specifically sought an opportunity of personal hearing in so many words, but the tenor of the submission made on 23.08.2022 does indicate that the petitioner did have further material in its possession that could have been placed before the authority, had such an opportunity been granted.

6. The impugned assessment has come to be finalised on 26.09.2022 without further reference to the petitioner. I am of the considered view that the procedure followed in this matter does not comply in full with the principles of natural justice. The portal was left open enabling the assessee to file submissions, which the assessee has also done in August, 2022. These submissions have not been taken note of by the authority.

7. Then again, a reading of the brief submissions made in March, 2022 does indicate that the petitioner was in possession of further material in support of its submissions. For the aforesaid reasons, the impugned assessment order dated 26.09.2022 stands set aside.

8. The portal shall be enabled for a period of four (2) weeks from date of receipt of a copy of this order to facilitate a request to be made by the petitioner for personal hearing, if so desired. If such request is made, then the respondents

Dr.ANITA SUMANTH,J.

shall hear the petitioner, consider the submissions made and pass orders of assessment de novo within a period of four (4) weeks from date of conclusion of personal hearing.

9. It is made clear that if the petitioner does not seek an opportunity of personal hearing within the time as stipulated, the respondents will finalise the assessment immediately thereafter, i.e., within four (4) weeks from the expiry of the two weeks granted to enable the petitioner to seek personal hearing. The order passed shall be in accordance with law.

10. This Writ Petition is disposed as above. No costs. Connected Miscellaneous Petitions are closed.

17.10.2022

Index : Yes / No
Speaking/non-speaking Order
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To

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