IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.1621 of 2023 &
W.M.P.Nos.1736 & 1737 of 2023

M/s.Logistics Sector Skill Council,
Represented by Chief Executive Officer,
33, Velacherry Main Road,
Velacherry,
Chennai - 600 042.
PAN : AAAAL8313L ... Petitioner

vs.

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

2.The Commissioner of Income Tax-Exemptions,
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 for writ of Certiorari calling for the records of the writ petitioner on the file of the first respondent to quash the impugned order dated 23.12.2022 passed under section 143(3) read with section 144B of the Act for the Assessment Year 2021-22 in DIN:ITBA/AST/S/143(3)/2022-23/1048212431(1).

For Petitioner : Mr.S.Sridhar

For Respondents : Mr.V.Mahalingam, Senior Standing Counsel

ORDER

The petitioner has challenged the assessment order dated 23.12.2022 passed under section 143(3) read with section 144B of the Income Tax Act in respect of the Assessment Year 2021-22 on the ground of violation of principles of natural justice.

2. Mr.V.Mahalingam, learned Senior Standing Counsel accepts notice on behalf of the respondents. By consent of both the parties, this writ petition is taken up for final disposal in the admission stage itself.

3. Heard Mr.S.Sridhar, learned counsel for the petitioner and Mr.V.Mahalingam, learned Senior Standing Counsel appearing for the respondents.

4. According to the petitioner, without affording an opportunity for the petitioner to send a reply to the Show Cause Notice issued under section 142(1) of the Income Tax Act, the first respondent has arbitrarily and legally passed the impugned assessment order. The petitioner was issued with the Show Cause Notice on 07.12.2022 wherein the petitioner was granted three days time to send a reply i.e., on or before 10.12.2022 to the Show Cause Notice dated 07.12.2022. On 09.12.2022, the petitioner had sought further time i.e, upto 19.12.2022 to send the reply. On 19.12.2022, being the deadline, the petitioner attempted to send the reply. However, as seen from the Screenshot filed by the petitioner along with this writ petition, it is clear that as early as on 16.12.2022, the E-submission portal was closed by the Officer concerned, which prevented the petitioner from sending the reply on 19.12.2022.

5. The petitioner has also addressed a grievance letter to the respondents on 19.12.2022 immediately on the date on which the petitioner was unable to submit its reply due to the closure of the E-submission portal by the Officer concerned. The grievance letter dated 19.12.2022 clearly states that the adjournment request sought for by the petitioner on

09.12.2022 was neither granted nor rejected, while the status remained open till 19.12.2022. The grievance letter also states that the petitioner was unable to upload the documents in the ITBA portal in response to the Show Cause Notice dated 07.12.2022 issued by the respondents only on account of the closure of the proceedings on 16.12.2022 itself.

6. As seen from the impugned assessment order, the respondents have observed that the assessee namely the petitioner herein has not responded to the show Cause Notice dated 07.12.2022 and there is no reference to the communications sent by the petitioner including the request made by the petitioner on 09.12.2022 seeking extension of time to submit its reply on or before 19.12.2022. The Show Cause Notice was issued on 07.12.2022 and the impugned assessment order was passed on 23.12.2022 within a short period of time, despite the fact that the petitioner had sought for extension of time to submit its reply by its letter dated 09.12.2022. It is clear from the above that the principles of natural justice have been violated by the respondents before passing the impugned assessment order. Hence, the impugned assessment order has to be quashed and the matter has to be remanded back to the respondents for fresh consideration on merits and in

accordance with law after affording a fair hearing to the petitioner by adhering to the principles of natural justice including by permitting the petitioner to send a reply to the Show Cause Notice dated 07.12.2022.

7. For the foregoing reasons, the impugned assessment order dated 23.12.2022 passed by the first respondent is hereby quashed and the matter is remanded back to the first respondent for fresh consideration. The first respondent, after re-enabling the portal in order to allow the petitioner to send a reply to the Show Cause Notice dated 07.12.2022 within a period of two weeks from the date of receipt of a copy of this Order, shall pass final orders on merits and in accordance with law, within a period of eight weeks thereafter.

8. With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

08.02.2023

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Index: Yes/No
Speaking order/Non-Speaking Order
Neutral Citation : Yes/No

To

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E-Ramp, Jawaharlal Nehru Stadium,
Delhi - 110 003.

2.The Commissioner of Income Tax-Exemptions,
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Chennai - 600 034.

ABDUL QUDDHOSE, J.

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W.P.No.1621 of 2023

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