IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2023

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.10645 of 2021 and
W.M.P.Nos.11255, 11272, 20712 of 2021

M/s.Arab India Investments Private Limited,
Represented by Mr.P.S.Mahmood Husain,
Director,
No.14-B, Jaganathan Street,
Nungambakkam,
Chennai 600 034. ... Petitioner

v.

The Additional / Join / Deputy /
Assistant Commissioner of Income Tax /
Income Tax officer,
Income Tax Department,
Government of India, Ministry of Finance,
National e-Assessment Centre,
New Delhi 110 095. ... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari calling for the records on the file of the respondent in DIN:ITBA/AST/S/143(3)/2020-21/1031837927(1) dated 27.03.2021 together with the consequential Demand Notice in DIN:ITBA/AST/S/156/2020-21/1031837948(1) dated 27.03.2021 and quash the same.

For Petitioner : Mr.V.Srikanth

For Respondent : Mr.D.Prabhu Mukunth Arunkumar for Mr.B.Ramanakumar

ORDER

The Writ Petition is filed challenging the order of assessment on the limited ground that it is made in violation of principles of natural justice inasmuch the show cause notice was issued on 11.03.2021 calling upon the petitioner to file their objection on or before 22.03.2021, though the petitioner had requested time until 05.04.2021, the impugned order has been made on the premise that the petitioner had not responded to the show cause notice.

2. It is submitted by the learned counsel for the petitioner that the petitioner's request for adjournment was not even considered, thereby, the impugned order has been made in violation of principles of natural justice. Further, the learned counsel for the petitioner also placed reliance upon the paragraph 5 of the counter affidavit wherein it is stated that the petitioner's request was not visible to the assessment unit due to technical glitches, therefore, the impugned order of assessment came to be passed. Paragraph 5 of the counter is extracted hereunder:

> *"5. As regards the averments in paragraph 10, it is submitted that though the petitioner its letter dated 22.03.2021 requesting additional time till 05.04.2021, the same was not visible to the assessment unit due to technical glitches and therefore the impugned assessment order was passed on the basis of the details and objections filed by the petitioner till. Since, the assessment unit had not received any objections or request for time till 27.03.2021, it has passed the impugned order on the basis of available documents."*

3. The learned counsel for the Revenue responded to the same by relying upon the counter.

4. This Court finds that there is merit in the submission of the learned counsel for the petitioner that the impugned order does suffer from violation of principles of natural justice inasmuch as the request for adjournment has not even been considered. The impugned order is thus set aside and the matter is remanded back to the respondent. The respondent shall re-do the assessment after affording the petitioner a reasonable opportunity. The respondent shall enable the petitioner to have access to the portal and if any personal hearing request is made, the same shall be considered and orders shall be passed in accordance with law within a period of 6 months from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any view on merits.

5. With the above direction, the Writ Petition stands disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

05.09.2023

Index: Yes/No
Speaking order/ Non speaking order
shk

MOHAMMED SHAFFIQ, J.

shk

To
The Additional / Join / Deputy /
Assistant Commissioner of Income Tax /
Income Tax officer,
Income Tax Department,
Government of India, Ministry of Finance,
National e-Assessment Centre,
New Delhi 110 095.

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