IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2023

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.10691 of 2022
and
W.M.P.Nos.10323 and 10325 of 2022

Shree Mahalakshmi and Company,
Represented by its Partner, Mr.S.G.Swaminathan,
S/o.Mr.Gnanapandithan,
Aged 51 years,
New No.62, Ramasamy Naidu Layout,
DPF Street, P.N.Palayam,
Coimbatore – 641 037. ... Petitioner

Vs.

1. The Income Tax Officer,
National Faceless Assessment Centre,
Income Tax Department,
Ministry of Finance,
Room No.401, 2nd Floor, E-Ramp,
Jawaharlal Nehru Stadium,
Delhi – 110 003.

2. The Deputy Commissioner of Income Tax,
Non-Corporate Circle – 4,
Coimbatore - Main Building,
63, Race Course Road,
Coimbatore – 641 018. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari to call for the records in DIN:ITBA/AST/S/147/2021-2022/1042158094(1) dated 30.03.2022 on the file of the first respondent relating to Assessment Year 2014-2015 and quash the same.

For Petitioner : M/s.Sree Lakshmi Valli

For Respondents : M/s.Premalatha
Junior Standing Counsel
for M/s.R.S.Balaji
Senior Standing Counsel

ORDER

The petitioner is aggrieved by the Impugned Assessment Order dated 30.03.2022, for the Assessment Year 2014-2015, which precedes a Show Cause Notice dated 27.03.2022. In the said notice itself, time was given for the petitioner to respond through its registered e-filing account at www.incometax.gov.in by 23:59 hours of 29.03.2022.

2. In the said notice, it was stated as follows:-

a) accept the proposed variation; or
b) file your written reply objecting to the proposed variation; or
c) if required, after filing written reply you may request for personal hearing so as to make oral submissions or present your case. The request can only be made by clicking the Seek Video

Conferencing button available against the SCN, in the view notices of this proceeding in the e-proceedings tab on e-filing portal. The request can be made only before expiry of compliance date & time. On approval of request, personal hearing shall be conducted exclusively through video conference.

3. The petitioner has also responded to the notice by uploading the response, which is acknowledged by the respondent in their e-proceeding response dated 29.03.2022. On the same day, the petitioner has also sent a request for Video Conferencing.

4. The reasons stated in the request is that materials submitted by the petitioner are not considered in the draft order. The Impugned Order has been passed on the following day on 30.03.2022.

5. It is evident that the respondent has proceeded to pass the order as otherwise, the assessment would have lapsed on or after 31.03.2022.

6. It is evident that the assessment was completed under the aegis of National Faceless Assessment Centre, Delhi.

7.M/s.Premalatha, learned Junior Standing Counsel appearing on behalf of the respondent submits that the petitioner has not made a request for personal hearing through Video Conferencing in its reply dated 29.03.2022.

8. Heard the learned counsel appearing for the petitioner and the learned Junior Standing Counsel appearing on behalf of the respondents.

9. The documents that have been furnished by the learned counsel for the petitioner particularly in Pg.No.139, wherein, an extract from the Website of the respondent which indicates that the petitioner has made a request and has given the reason that as the materials furnished are not considered in the draft order.

10. That being the case, it cannot be said that the petitioner has not made a request for Video Conferencing.

11. Under these circumstances, I am inclined to set aside the impugned order and remit the case back to the respondent to pass a fresh order on merits and in accordance with law, after giving the petitioner an opportunity of being heard through video conferencing.

12. This exercise shall be carried out by the respondent within a period of forty five (45) days. The respondent shall ensure that appropriate link is provided to the petitioner to come for personal hearing through Video Conferencing, on any of the date that may be fixed by the National Faceless Assessment Centre, Delhi.

13. In view of the above observations and directions, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

05.07.2023

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

rgm

C.SARAVANAN, J.

rgm

To

1. The Income Tax Officer,
   National Faceless Assessment Centre,
   Income Tax Department,
   Ministry of Finance,
   Room No.401, 2nd Floor, E-Ramp,
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