IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.21831 of 2021 &
W.M.P.Nos.23015, 23017 & 27143 of 2021

Jayaprakash ... 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 Income Tax Officer,
Non-Corporate Circle 8(1),
Aayakar Bhavan,
No.121, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034. ...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India for writ of Certiorari calling for the records in DIN:ITBA/AST/S/147/2021-22/1035481796(1) dated 11.09.2021 on the file of the first respondent relating to A.Y.2013-14 and quash the same.

For Petitioner : Mr.G.Baskar

For Respondents : Mr.V.Mahalingam,
Standing Counsel

ORDER

The petitioner has challenged the impugned assessment order dated 11.09.2021 passed under section 147 of the Income Tax Act, 1961 in respect of the assessment year 2013-14 on the ground of violation of principles of natural justice.

2. Heard Mr.G.Baskar, learned counsel for the petitioner and Mr.V.Mahalingam, learned Standing Counsel appearing for the respondents.

3. The petitioner had submitted his reply to the Show Cause Notice issued by the respondents and thereafter, sought for personal appearance through video conferencing by his Email dated 07.09.2021 which was uploaded in the respondent web portal. However, as seen from the impugned assessment order, the said request has not been considered, but instead the impugned assessment order has been passed on 11.09.2021.

4. Under the impugned assessment order, a sum of Rs.2,30,00,000/- has been added as income of the petitioner under section 68 of the Income

Tax Act, 1961, for the assessment year 2013-14 as according to the respondents, the same was not declared in the Income Tax Return filed by the petitioner for the said assessment year.

5. However, the petitioner contends that the said amount was infact declared in the Income Tax Return submitted by the petitioner for the assessment year 2013-14. Learned counsel for the petitioner drew the attention of this Court to Schedule No.6 of the balance sheet submitted by the petitioner dealing with the loans and advances along with his Income Tax Return for the assessment year 2013-14 which reveals that the said sum of Rs.2,30,00,000/- was infact disclosed in the balance sheet and it reveals that one Santha Anantharaman from whom, the petitioner had purchased the property, had received a sum of Rs.2,30,00,000/- from the petitioner.

6. However, as seen from the impugned assessment order, the first respondent has given a finding that the petitioner has not disclosed the said amount in his return filed for the assessment year 2013-14. According to the petitioner, only to explain the said fact, he had sought for personal hearing through video conferencing on 13.09.2021 by his communication dated

07.09.2021. However, even before the date sought for by the petitioner, namely 13.09.2021, the impugned order has been passed on 11.09.2021. In the impugned assessment order, no reasons have been given as to why the petitioner was not afforded personal hearing through Video Conferencing as requested by him through his communication dated 07.09.2021 to show that he had infact declared the sum of Rs.2,30,00,000/- in his balance sheet. This court is of the considered view that the respondents ought to have granted an opportunity of personal hearing to the petitioner through video conferencing as sought for by him in his communication dated 07.09.2021.

7. Therefore, this Court is of the considered view that the principles of natural justice have been violated by the respondents before passing the impugned assessment order dated 11.09.2021. Hence, the impugned assessment order dated 11.09.2021 has to be quashed and the matter has to be remanded back to the first respondent for fresh consideration on merits and in accordance with law, after affording a personal hearing to the petitioner and by adhering to the principles of natural justice, within a time frame to be fixed by this Court.

8. For the foregoing reasons, the impugned assessment order dated 11.09.2021 is hereby quashed and the matter is remanded back to the first respondent for fresh consideration on merits and in accordance with law. The petitioner is also permitted to file a reply before the respondent within a period of one week from the date of receipt of a copy of this order and the first respondent shall consider the same and pass final orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order, after affording one personal hearing to the petitioner and by adhering to the principles of natural justice.

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

10.02.2023

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

To

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ABDUL QUDDHOSE, J.
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