IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3886 of 2024

==

Prabhat Narain Singh, S/o Sri Late Prasiddha Narayan Singh, Permanent Resident of 103, Sri Ram Place, East Boring Canal Road, Patna-800001, P.O.-GPO and P.S.- Buddha Colony, District- Patna, Bihar presently residing at Flat No.37, A Wing Ahuja Tower, Rajabhau Anant Desai Marg, Prabhadevi, P.O.-Prabhadevi, P.S.- Dadar, Mumbai - 400025, Maharashtra.

... ... Petitioner/s

Versus

The Commissioner of Income Tax (Appeals), The National Faceless Appeal Centre (NFAC), Delhi

... ... Respondent/s

==

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Rastogi, Sr. Advocate
Ms. Smriti Singh, Advocate
Mrs. Kalpana Rastogi, Advocate

For the Respondent/s : Mrs.Archana Sinha, Sr. Standing Counsel
Income Tax Department

==

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 01-05-2024

The petitioner is aggrieved with the fact that no personal hearing was granted to the petitioner despite a request made in the written submissions filed before the Appellate Authority, which as per the present scheme of things, is a Faceless Authority.

2. Learned Senior Counsel appearing for the petitioner specifically points out the plea made for a personal hearing, as is available in the written submissions produced as Annexure-4. At Ground No. 56, the petitioner had specifically raised a plea for

personal hearing. The same was not afforded and the petitioner has also pleaded in Paragraph 12 that no opportunity of personal hearing was ever granted to the petitioner by the Appellate Authority.

3. Learned Senior Standing Counsel for the Income Tax Department from the Appellate Order, Paragraph 27, points out that the Appellate Authority records that a hearing was fixed and the representative attended and was heard.

4. We extract hereunder the specific portion of Paragraph 27:-

> *"27. In the letter the assessee has requested for the V.C. hearing. The same is fixed on 16^{th} at 3 PM as per the request and link is provided after the approval of the higher authorities. In the VC hearing the representative attended and briefed issues."*

5. We see that the month in which the hearing took place is not specified. The written submissions were filed on 10.02.2023 and the appellate order, produced as Annexure-P/1, was passed on 31.01.2024. We also see that the specific averment made in the writ petition has not been controverted in the counter affidavit. Definitely, if a hearing was conducted, there should have been a notice issued, either in the physical form or auto populated, which should also find place in the

counter affidavit. There is no averment controverting the specific allegation of no personal hearing having been afforded. We are also unable to place any reliance on Paragraph 27 in the Appellate Order, which is a mechanical statement made without specification of the exact day on which the hearing was conducted, without specification of the month.

6. We hence set aside the order dated 31.01.2024 at Annexure-P/1 directing the Appellate Authority to intimate the hearing date and grant an opportunity of hearing to the petitioner and then pass a speaking order. We make it clear that we have not gone into the merits of the assessment and the same would be decided by the Appellate Authority.

7. With the aforesaid direction(s), the writ petition is allowed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	02.05.2024
Transmission Date	