IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2024

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.7375, 7380, 7382 and 7383 of 2024
and
WMP.Nos.8277, 8279,8233,8284,8285,8287,8286 and 8824 of 2024

Chennai Port Authority,
Rep. by its Financial Advisor &
Chief Accounts Officer
Mr.D.Ramana Murthy,
S/o.D.Surya Prakasa Rao,
Aged 51 years,
1, Centeneary Buildings, Rajaji Salai,
Opposite to the Reserve Bank of India,
Chennai-600 001, Tamil Nadu. ... Petitioner in all W.P.'s

Vs.

1. The Deputy Commissioner of Income Tax,
Non-Corporate Circle-11 (1),
16, BSNL Building Tower, 2nd Floor, Greams Road,
Chennai- 600 006.

2. The Assessment Unit,
Income Tax Department,
The National Faceless Assessment Centre (NFAC),
Ministry of Finance, Room No.401, 2nd Floor, E-Ramp,
Jawaharlal Nehru Stadium,
Delhi-110 003 .... Respondent in all W.P.'s

PRAYER in all W.P.'s: Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari to call for the records in DIN:ITBA/AST/S/147/2023-24/1060771778(1), ITBA/AST/S/143(3)/2023-24/1060771357(1), ITBA/AST/S/143(3)/2023-24/1060771358(1) and ITBA/AST/S/147/2023-24/1060771751(1) dated 12.02.2024 on the file of the 2nd Respondent relating to A.Y. 2003-04, 2005-06, 2006-07 and 2004-05 and quash the same.

For Petitioner (In all W.P.'s)	:	Mr.Basker G
For Respondents (in all W.P.'s)	:	Dr.B.Ramaswamy (R1 to R3) Senior Standing Counsel

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COMMON ORDER

Since the issue involved and relief sought for in all these Writ Petitions are one and the same, they are taken up together and disposed of by a common order.

2. These Writ Petitions are filed challenging the impugned orders in DIN:ITBA/AST/S/147/2023-24/1060771778(1), ITBA/AST/S/143(3)/2023-24/1060771357(1), ITBA/AST/S/143(3)/2023-24/1060771358(1) and ITBA/AST/S/147/2023-24/1060771751(1) dated 12.02.2024 on the file of the 2nd Respondent relating to A.Y.s 2003-04, 2004-05, 2005-06 and 2006-07 and to quash the same.

3. The case of the Petitioner is that in these cases the 2nd Respondent passed an assessment order dated 14.03.2023 and the same was challenged before this Court in W.P.Nos.11849, 11851, 11854 and 11859 of 2024 and this Court vide order dated 25.04.2023, allowed the Writ Petitions by setting aside the assessment order dated 14.03.2023 and remanded the matter back to the 1st Respondent and directed the Petitioner to submit the necessary documents manually before the 1st Respondent. The operative portion of the said order is extracted hereunder:

> "*7. The learned Senior standing counsel (Income Tax) appearing for the respondents submitted that there is statute provided for personal hearing through video conferencing or physically, however, the petitioner submitted reply for the show cause notices and after considering the petitioner's reply only impugned orders were passed. Further, the petitioner claim that it has to produce voluminous documents, before the Authority and hence, personal hearing through video conferencing was not provided to the petitioner. However, the Assessing Officer is sitting at Chennai on 03.05.2023 at Non-Corporate Circle- II (1), BSNL Building Tower, Greams Road, Chennai- 600 006 and without prejudice to the rights of the respondents, the petitioner will be given opportunity.*
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> *8. In view of the fair submission made by the learned senior Standing counsel (Income Tax) appearing for the respondents, the impugned orders passed by the second respondent dated 14.03.2023 are set aside and the matter is remanded back to the Assessing Officer for fresh consideration.*
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> *9. The petitioner is directed to appear before the Assessing Officer during the sitting at Chennai on 03.05.2023 in Non-Corporate Circle- II (1), BSNL Building Tower, Greams Road, Chennai-6 at 11.00*

a.m. and produce all the necessary documents without seeking any further adjournment. On hearing the petitioner, the Assessing Officer shall pass appropriate orders, as early as possible.

10. The writ petitions are allowed on the above terms. No costs. Consequently, connected miscellaneous petitions are closed."

In compliance of the said order, the Petitioner and its counsel appeared before the 1st Respondent and submitted all the necessary documents manually. Despite the same, the 2nd Respondent issued notices dated 04.10.2023, demanding the voluminous data of 20 items which were already submitted before the 1st Respondent, for which the petitioner submitted its reply on 14.11.2023. Again a letters dated 05.12.2023 and 04.01.2024 were issued to the Petitioner and the Petitioner also submitted its reply on 12.12.2023 and 11.01.2024. But without considering the same, again a show cause notice dated 12.02.2024 was issued followed by the impugned order dated 12.02.2024 was passed by the 2nd Respondent. Challenging the same, the present Writ Petitions came to be filed.

4. The learned counsel for the Petitioners would submit that as directed by this Court when the petitioner appeared for personal hearing before the Assessing Officer during the sitting at Chennai, the said authority had stated that they will accept the documents only if it is uploaded. He further submitted that

the documents submitted manually have not been considered by the said authority before passing the assessment order as the same were physically lying in Chennai.

5. Dr.B.Ramasamy, learned Senior Standing counsel for the Respondents submitted that as per the direction of this Court, since the Assessment officer after affording personal hearing, was directed to pass orders as early as possible, the Assessing officer insisted the Petitioner to furnish soft copies of the documents, but the Petitioner had not uploaded the same. He further submitted that since the documents filed by the Petitioner manually is lying at Chennai,the faceless assessing officer had no occasion to peruse them and without perusing the same, assessment orders came to be passed. However, he would submit that in any event if these documents are uploaded, the same will be considered and appropriate orders will be passed.

6.Heard the learned counsel for the petitioner as well as learned Senior Standing Counsel appearing for the Respondents.

7. Considering the submissions made by the learned counsel for the Petitioner, in the present case since the 2nd Respondent Faceless Assessment

Officer had no occasion to peruse the documents filed by the Petitioner, at the time of personal hearing since those are yet to be uploaded in the web portal.

8. The learned counsel for the Petitioner submitted that now the Petitioner is ready to upload the documents in the web portal as sought for by the Respondents and seeks three months time.

9. In view of the aforesaid submissions made by the learned counsel for the Petitioner, this Court is inclined to set aside the impugned Assessment Orders. Accordingly, this Court passes the following order:

(i) The orders impugned herein are set aside and the matters are remanded back to the authority concerned.

(ii) The Respondents concerned shall take steps to open/activate the Department Portal within a period of three months from the date of receipt of a copy of this order.

(iii) The Petitioner is directed to upload the documents sought for by the Respondents within a period of three months from the date of activation of the Department Portal.

(iii) On uploading of such documents by the Petitioner, the respondent concerned shall consider the same and issue a 14 days clear notice by fixing the date for personal hearing to the petitioner and the Faceless assessment officer shall provide personal hearing through video conferencing and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible as contemplated under Section 144B of the Income Tax Act, 1961.

With the above directions, these Writ Petitions are disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

12.09.2024

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KRISHNAN RAMASAMY, J.

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To

1. The Deputy Commissioner of Income Tax,
   Non-Corporate Circle-11 (1),
   16, BSNL Building Tower, 2nd Floor, Greams Road,
   Chennai- 600 006.

2. The Assessment Unit,
   Income Tax Department,
   The National Faceless Assessment Centre (NFAC),
   Ministry of Finance, Room No.401, 2nd Floor, E-Ramp,
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