IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2024

CORAM :

THE HONOURABLE **MR. JUSTICE KRISHNAN RAMASAMY**

W.P.No.14910 of 2022
and
W.M.P.Nos.14128 and 14131 of 2022

C.R.Mills (Coimbatore) Private Ltd.,
1-G, Senthil Nagar, Somanur,
Coimbatore – 641 668.
Rep. By its Managing Director. ... Petitioner

Vs.

National Faceless Assessment Centre,
Room No.401, 2nd Floor, E-Ramp,
Jawaharlal Nehru Stadium,
Delhi – 110 003.
Represented by Additiona/Joint/Deputy/Assistant Commissioner of Income Tax/Income Tax Officer
...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records of the respondent herein leading to issuance of order dated 08.03.2022 (vide DIN ITBA/AST/S/147/2021-22/1040460443(1)) and quash the same and direct the respondent to pass assessment order after providing an opportunity to the petitioner to make its submissions.

For petitioner : Mr.S.Sathiyanarayanan

For respondent : Dr.B.Ramaswamy
Standing Counsel

ORDER

This writ petition is filed challenging the notice dated 08.03.2024 issued by the respondent and to direct the respondent to pass assessment order after providing an opportunity to the petitioner to make its submissions.

2. The learned counsel for the petitioner submitted that the petitioner is doing textile business and is an income tax assesse and due to huge losses, the petitioner company did not file income tax return for the AY 2017-18. While so, notice under Section 148 of the Income Tax Act, 1961 was issued to the petitioner on 20.03.2021 and other subsequent notices under Section 142(1) were also sent to the old email id of the petitioner and only after the receipt of assessment notice through registered post, the petitioner came to know about the issuance of the same. The petitioner further tried to upload the documents and submissions through income tax online portal but as the online window was closed, the petitioner was unable to upload his submissions and documentary

evidences in the income tax E portal. Further, the petitioner raised a ticket of grievance in the online E proceeding portal and due to the technical glitch he was unable to make his submissions in reply to the impugned assessment notice.

3. The learned counsel for the petitioner further submitted that the impugned order was passed without any notice and also filing of reply in the income tax E portal was denied to the petitioner. The petitioner had changed his E mail Id in the year 2014-2015 itself and all the notices were sent to his old mail ID. Finally, a show cause notice dated 04.02.2022 was sent to the alternative mail id which was registered with the corresponding PAN of the petitioner and not to the one which was referred in the IT returns from the year 2014-2015. Therefore, he submitted that the petitioner had no occasion to change his email id. However, after the receipt of the said show cause notice, he had raised his grievances in the grievances column of the income tax E portal.

4. Now, the petitioner states that he was not able to submit his reply and other documentary evidence since the E portal was closed. This grievance was raised on 03.03.2022. However, without addressing the

issues of the petitioner, the impugned assessment order dated 08.03.2024 was passed. Hence, he would submit that the impugned order dated 08.03.2024 is liable to be set aside and the matter shall be remitted for reconsideration for providing opportunities to the petitioner to file his reply and thereafter, to proceed further.

5. Dr.B.Ramaswamy, learned Standing Counsel, for the respondent strongly opposed the submissions made by the learned counsel for the petitioner. He would submit that the petitioner was given many opportunities and several notices were sent to the e mail id that he had provided when he applied for the PAN and notices were sent to the registered id only. However, final notice was also sent to the alternative e mail id. The petitioner failed to respond to all the notices and therefore, the fault lies on the part of the petitioner only. The petitioner failed to change the email id that was initially registered with his PAN and hence, he prayed for dismissal of the present writ petition. However, he submitted that if this Court is inclined to consider this writ petition, then, the same may be considered by imposing heavy costs on the petitioner.

6. I have gone through the submissions made by the learned counsel for the petitioner as well as the respondents and perused the

materials available on record.

7. There is no dispute on the issue that the present impugned order issued was a *ex parte* order. Though, reply was filed, the petitioner had not appeared for the personal hearing. The reply provided by the petitioner was that notices were sent to his old email id instead of the new email id that was mentioned in the IT returns form.

8. As rightly contended by the learned counsel for the respondent, the notices and other communications will be sent to individuals to the email id mentioned at the time of registration of PAN and in the event of any change in the email id then the same has to be altered in the PAN card as well. Unless this change is done in the PAN and if some other id is mentioned then the system will not accept the same and therefore, all the notices, communications and other related communications will be automatically generated by the system only to the email id that is registered with the PAN. Therefore, it is only the fault on the part of the petitioner only. I do not find any fault on the part of the respondent in issuing impugned assessment order to the mail id that was given by the petitioner at the time of registration of the PAN.

9. Now, what the petitioner pleads is only to provide an opportunity to appear and explain before the authorities concerned and after providing an opportunity for personal hearing, they can very well pass appropriate orders. In the present case, as already stated the assessment order passed by the respondent is an *ex parte* order. The petitioner approached this Court citing several reasons that he had changed his email id and he was under the belief that any references in the income tax returns would be intimated to him in the new e mail id and the petitioner had not been using the old email id since the year 2014. Taking into consideration this aspect and to meet the ends of justice, the present impugned assessment order was passed without providing opportunities for the petitioner to file his reports and submissions, this Court is inclined to grant one more opportunity to the petitioner for personal hearing subject to payment of Rs.10,000/- as costs payable to “The Principal Government Naturopathy Medical College and Hospital, Account No.7883022723, IFSC Code:IDIB000M157” within a period of two weeks from the date of receipt of a copy of this order.

10. Accordingly, the impugned assessment order dated

08.03.2022 is set aside and the matter is remanded for reconsideration and the petitioner is directed to file a reply within three weeks from the date of payment of costs. After filing of reply by the petitioner, the respondent is directed to provide an opportunity of personal hearing within a period of 14 days and proceed further in accordance with law. The respondent is directed to open the income tax E portal and the petitioner is directed to file the reply.

11. With the above directions, this writ petition is disposed of. Connected W.M.P.is closed. No costs.

30.09.2024

vca

Citation : Yes/No
Index : Yes/No

KRISHNAN RAMASAMY.J,

vca

To:
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