IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2024

CORAM

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.11227 of 2024
and W.M.P Nos.12322 and 12323 of 2024

Narayanan Muthupandian
Lakshminarayanan ... Petitioner

..Vs..

1. Assessment Unit,
   Income Tax Department,
   National Faceless Assessment Centre,
   4th Floor, Mayur Bhawan,
   Connaught Lane, Connaught Place,
   New Delhi- 110001.

2. The Income Tax Officer,
   Non Corporate Ward-17(7),
   BSNL Building, No.46, Greams Road,
   Chennai-600006. ... Respondents

PRAYER: This 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/143(3)/2023-24/1063029456(1) dated 20.03.2024 on the file of the 1st Respondent relating to the A.Y.2022-23 and to quash the same.

For Petitioner : Mr..Dinesh

For Respondents : Dr.B.Ramasamy
Senior Standing Counsel

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ORDER

The present Writ Petition is filed challenging the order dated 20.03.2024 passed by the 1st Respondent, pertaining to the Assessment Year 2022-23 and to quash the same.

2. The learned counsel for the Petitioner submitted that the 1st Respondent issued a Show Cause Notice to the Petitioner on 27.02.2024 and the same was sent to the email I.D. of the petitioner viz., siva.durai82@gmail.com, which is an infrequently used personal ID, and hence the Petitioner could not submit his reply. He further submitted that though all the earlier notices were also sent to the same E-mail I.D., they were accompanied by real time alerts and therefore the Petitioner submitted his reply and since no real time alert was sent to the Petitioner with regard to the aforesaid Show Cause Notice dated 27.02.2024, the Petitioner was not able to submit his reply. Consequently, the 1st Respondent passed the impugned assessment order dated 20.03.2024, without affording an opportunity of hearing to the Petitioner and therefore the same is in violation of principles of natural

justice and hence he prays to grant one more opportunity to the Petitioner to substantiate his case.

3. Per contra, Mr.B.Ramaswamy, learned Senior Standing Counsel appearing for the Respondents submitted that the Show Cause Notice was sent to the registered e-mail ID of the Petitioner, in which all the earlier notices were sent. But the Petitioner has failed to submit his reply only to the Show Cause Notice and therefore assessment order came to be passed. Further,he would submit that principles of natural justice were duly complied with and therefore prays to dismiss this Writ Petition.
their case.

4. Heard both sides. Perused the records.

5. In the case on hand, all the notices were issued to the Petitioner in the e-mail I.D. viz., siva.durai82@gmail.com, but the Petitioner failed to submit his reply only to the Show Cause Notice dated 27.02.2024, on the ground that no real time alert was received by him. This Court is unable to accept the said contention. As rightly contended by Dr.B.Ramaswamy, learned Senior Standing

Counsel that it is the duty of the Petitioner to view their E-mail I.D. and having replied to the earlier notices which were sent to the same E-mail I.D., the Petitioner failed to reply to the Show Cause Notice stating that no real time alert was received by them. The Department shall not be blamed for not sending the real time alert. Though it is the fault on the part to the Petitioner, impugned order was passed without affording an opportunity of hearing to the Petitioner.

6. It is settled law that violation of principles of natural justice is a failure of due process. If any order is passed against the petitioner with demand, that order has to be passed after giving an opportunity of personal hearing to the petitioner otherwise, it will amount to depriving the interest of the petitioner and the same amounts to violation of principles of natural justice.

7. In the case on hand, there is no doubt that the non-filing of reply is only due to the fault on the part of the petitioner. Normally, the respondent is supposed to have provided an opportunity of personal hearing even if no reply was filed by the petitioner. However, no such opportunity of personal hearing was provided to the petitioner herein and hence, it is clear that the impugned order was passed in violation of principles of natural justice.

8. Therefore, for the reasons stated above and in the interest of justice, this Court feels that it would be appropriate to set aside the impugned order and remand the matter back to the respondent for re-consideration, in which case, the petitioner will get an opportunity to file their reply and appear before the respondent for personal hearing.

8. Accordingly, this Court passes the following order:

(i) The impugned order dated 20.03.2024 is set aside and the matter is remanded back to the Respondents, subject to the payment of a sum of Rs.10,000/- to the Principal Government Naturopathy Medical College and Hospital, Account No.7883022723, IFSC Code: IDIB000M157, within a period of 2 weeks from the date of receipt of copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) Upon production of proof with regard to the payment of a sum of Rs.10,000/- as stated above, the Respondents shall activate the Departmental portal, within a period of ***two weeks***, in order to enable the petitioner to file his reply,

(iii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iv) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice by fixing the date of personal hearing to the petitioner and thereafter, pass appropriate orders on merhis and in accordance with law, after hearing the petitioner, as expeditiously as possible.

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

01.10.2024

Index: Yes/No
Internet: Yes
arr/nsa

To

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KRISHNAN RAMASAMY, J.

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