IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.10.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.11981 of 2024
& W.M.P.Nos.13071 & 13072 of 2024

Pricol Limited,
Rep by its Managing Director,
Mr.Vikram Mohan,
109, CPM Towers Race Course,
Coimbatore Racecourse S.O., Coimbatore South,
Coimbatore 641 018.

... Petitioner

Vs.

1.Assessment Unit,
Income Tax Department,
National e-assessment Centre,
Delhi.

2.Deputy Commissioner of Income Tax,
Corporate Circle 2,
63, Race Course Road,
Coimbatore 641 018.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent and quash the impugned order in ITBA/PNL/F/271(1)(C)/2023-24/1063724958(1) dated 30.03.2024 under Section 271(1)(c) of the IT Act passed by the 1st respondent for the assessment year 2016-17 as illegal.

For Petitioner	:	Mr.T.Banusekar, Assisted by Ms.B.Samyuktha
For Respondent	:	Dr.B.Ramaswamy, Senior Standing counsel

ORDER

This writ petition has been filed challenging the impugned order dated 30.03.2024 passed by the 1st respondent.

2. The learned counsel for the petitioner would submit that initially, an assessment order was passed on 24.12.2019. The said assessment order has been challenged by the petitioner by way of an appeal before the Appellate Authority.

3. He would further submit that pursuant to the assessment order, the penalty proceedings were initiated by the respondent and with regard

to the same, three show cause notices were issued on 24.12.2019, 13.05.2021 and 21.12.2021, for which, the replies were filed by the petitioner on 10.01.2020, 17.05.2021 and 25.12.2021 respectively. Under these circumstances, once again, a fresh show cause notice was issued by the respondent, on 29.03.2024 at 02.56 pm, calling upon the petitioner to file their reply on the same day before 06.49 pm by explaining as to why the penalty proceedings cannot be imposed against the petitioner. Due to the insufficient time, the petitioner was unable to file their reply to the said notice dated 29.03.2024. Thereafter, without providing any further time, the impugned order came to be passed by the respondent on 30.03.2024 in violation of principles of natural justice.

4. The only contention of the petitioner is that prior to the disposal of appeal filed by the petitioner, the penalty proceedings was independently initiated by the respondent. In such case, the respondent should have provided an opportunity of personal hearing to the petitioner before initiating the penalty proceedings. However, without providing sufficient opportunity to the petitioner, the impugned order

came to be passed by the respondent. Hence, he requests this Court to set aside the impugned order and remit this matter back to the respondent.

5. Per contra, Dr.B.Ramaswamy, learned Senior Standing counsel appearing for the respondent had strongly objected the petitioner's submissions and would contend that in this case, the respondents had already issued the show cause notices during 3 earlier occasions, for which, the replies were also filed by the petitioner and now, the 4th show cause notice dated 29.03.2024 was issued by the respondent only in the form of a reminder. In such case, the petitioner cannot plea that no sufficient opportunity was provided to them and hence, he requests this Court to pass appropriate orders.

6. Heard the learned counsel for the petitioner and the learned Senior Standing counsel for the respondents and also perused the materials available on record.

7. In the case on hand, initially, an assessment order dated 24.12.2019 was passed by the respondent, whereby it was clearly mentioned that the penalty proceedings will be initiated independently. Thereafter, the said assessment order has been challenged in the appeal and ITI application filed by the petitioner.

8. In the meantime, the penalty proceedings were initiated by the respondent vide show cause notices dated 24.12.2019, 13.05.2021 and 21.12.2021, for which, the replies were filed by the petitioner on 10.01.2020, 17.05.2021 and 25.12.2021 respectively. Finally, a fresh show cause notice was issued by the respondent on 29.03.2024 at 02.56 pm, whereby, they directed the petitioner to file their reply on the same day before 06.49 pm i.e., within a period of 4 hours. In such case, this Court is of the view that it is impossible for anyone to file their reply within such a short period.

9. That apart, even if no reply was filed, it is the bounded duty of the respondent to provide an opportunity of personal hearing to the

petitioner in the event of passing any adverse order. Hence, this Court is of the view that the impugned order was passed in violation of principles of natural justice since it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such view of the matter, this Court is inclined to set aside the impugned order dated 30.03.2024 passed by the 1st respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 30.03.2024 is set aside and the matter is remanded to the 1st respondent for fresh consideration, subject to the payment of a sum of Rs.5,000/- by the petitioner 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 copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.
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> (ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of receipt of copy of this order.

(iii) On filing of such reply/objection by the petitioner, the 1st 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 merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

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

30.10.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa

To

1.Assessment Unit,
Income Tax Department,
National e-assessment Centre, Delhi.

2.Deputy Commissioner of Income Tax,
Corporate Circle 2, 63, Race Course Road,
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KRISHNAN RAMASAMY.J.,

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