IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **04.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.11910 of 2024
and W.M.P.Nos.13006, 13008 & 13009 of 2024

Vee See Bee Trust
Represented by Trustee
No.05, Lakshmi Nivas,
Dr.Subbarayan Nagar,
Kodambakkam, Chennai – 600 024
PAN: AAATV0477C ... Petitioner

-vs-

1.The Assessment Unit,
Income Tax Department,
National e-Assessment Centre, Delhi
E-Ramp, Jawaharlal Nehru Stadium,
Delhi – 110 003.

2.The Deputy / Assistant Commissioner of Income Tax
Exemptions, Chennai
Income Tax Department,
No.121, Nungambakkam High Road,
Chennai 600 034.

3.The Commissioner of Income Tax
Exemptions – Chennai
Income Tax Department,
No.121, Nungambakkam High Road,
Chennai 600 034. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for the records of the writ petitioner on the file of the 1st respondent to quash the impugned order u/s 143(3) read with section 144B of the Income Tax Act, 1961 dated 22.03.2024 in DIN: ITBA/AST/S/143(3)/2023-24/1063162849(1) for the assessment year 2022-23.

For Petitioner : Mr.A.S.Sriraman

For Respondents : Mrs.S.Premalatha, Jr. SC

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ORDER

An assessment order dated 22.03.2024 is challenged on the ground that a personal hearing through video conferencing or other mode was not provided to the petitioner in spite of an express request for the same. Pursuant to the petitioner filing the return of income for assessment year 2022-23, notices were issued to the petitioner under Section 142(1) and 143(2) of the Income Tax Act, 1961 (the I-T Act). Such notices were replied to by the petitioner. This was followed by show cause notice dated 30.01.2024. By such show cause notice, the petitioner was called upon to show cause as to why the proposed variations should not be made. The petitioner replied to such show cause notice and requested for personal hearing through video conferencing. Such request was made on 03.02.2024. The impugned assessment order was issued in these facts and circumstances on 22.03.2024 without granting a personal hearing.

2. Learned counsel for the petitioner referred to the show cause notice, the petitioner's reply and the specific request for a personal hearing in the manner prescribed and submitted that the impugned

order is vitiated for non compliance with the mandatory prescription under Section 144B of the I-T Act. In support of this contention, he relied upon an earlier order of this Court dated 26.04.2024 in W.P.No.11098 of 2024.

3. Mrs.S.Premalatha, learned junior standing counsel, accepts notice for the respondents. By turning to the impugned order, learned counsel pointed out that the petitioner received notices under Section 143(2) and Section 142(1) and replied thereto. Likewise, she pointed out that the petitioner replied in full to the show cause notice. She contended that principles of natural justice were complied with by providing opportunities to the petitioner to reply to the notices and the show cause notice. In such context, she contends that the non provision of a personal hearing by video conferencing does not vitiate the order. She points out that this Court interfered in order dated 26.02.2024 in W.P.No.32560 of 2023 because an issue not raised earlier was included in the impugned

draft assessment order in that case. She also submits that the fact situation in *Bharat Aluminium Company Limited v. Union of India (2022)134 taxmann.com 187* is distinguishable.

4. The case turns on an interpretation of clause (viii) of sub-section (6) of Section 144B of the I-T Act. In W.P.No.11098 of 2024, I had extracted the said provision and concluded that the statutory prescription is intended to be mandatory for reasons set out therein. The petitioner has placed on record evidence that a request for personal hearing was made not only in the reply dated 03.02.2024 to the show cause notice but also by adopting the method prescribed in such regard. In those circumstances, the impugned order cannot be sustained by reason of breach of the mandatory requirement of Section 144B.

5. For reasons set out above, impugned assessment order dated 22.03.2024 is set aside and the matter is remanded. The first

respondent is directed to provide a reasonable opportunity to the petitioner, including by way of a personal hearing through video conferencing, and thereafter issue a fresh assessment order. This exercise shall be completed within ***three months*** from the date of receipt of a copy of this order.

6. W.P.No.11910 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.13006, 13008 and 13009 of 2024 are closed.

04.06.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

To

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Income Tax Department,
National e-Assessment Centre, Delhi
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SENTHILKUMAR RAMAMOORTHY,J

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