IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **13.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.14740 of 2024 and
W.M.P.Nos.15982 & 15985 of 2024

M/s.Sapthagiri Cargo,
Represented by its Managing Partner & CEO,
B3-Olympia Grande,
Pallavaram, Chennai-600 043. .. Petitioner

-vs-

Assessment Unit,
Income Tax Department,
National Faceless Assessment Centre,
New Delhi. ... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records on the files of the respondent order dated 19.03.2024 bearing DIN No. ITBA / AST / S / 143(3) / 2023-24 / 1062907062(1), Demand Notice dated 19.03.2024 bearing DIN and Notice No. ITBA / AST / S / 156 / 2023-24 / 1062907362(1) and the penalty proceedings dated 19.03.2024 and the penalty proceedings dated 19.03.2024 bearing DIN ITBA / PNL / S / 270A /

2023-24 / 1062907210(1) and to quash the same and consequently direct the respondent not to initiate any recovery or any other coercive action against the petitioner.

For Petitioner : Ms.A.V.Bharathi

For Respondent : Mr.V.Mahalingam, Senior Standing Counsel
Mr.S.Rajasekar, Junior Standing Counsel

ORDER

An assessment order dated 19.03.2024 and the consequential penalty proceedings are assailed in this writ petition on the ground of breach of principles of natural justice.

2. Learned counsel for the petitioner submits that the petitioner requested for a personal hearing by video-conference. She further submits that a hearing by video-conference was offered and that the petitioner joined the meeting, but there was no participation from the Income Tax Department. In these circumstances, she submits that the impugned assessment order records that the petitioner did not attend the video-conference hearing.

3. Mr.V.Mahalingam, learned senior standing counsel, accepts notice

for the respondent. He points out that the petitioner filed a statutory appeal against the assessment order. Therefore, he submits that the present writ petition is not maintainable.

4. Under Section 144B of the Income Tax Act, 1961, a personal hearing through video-conference is mandatory when requested for by the assessee. In this case, without doubt, a request for personal hearing was made and the petitioner endeavoured to participate in such personal hearing by logging-in. The documents on record disclose that such hearing was not effective because of the non participation of the respondent. In these circumstances, the impugned assessment order and the consequential penalty order cannot be sustained. However, the petitioner shall withdraw the statutory appeal filed in this regard within one week from the date of receipt of a copy of this order. Subject to this condition, the petitioner is entitled to relief.

5. For reasons aforesaid, the impugned assessment order dated

19.03.2024 and impugned penalty proceedings of the same date are set aside and the matter is remanded for reconsideration. The respondent is directed to provide a reasonable opportunity to the petitioner, including an effective personal hearing through video-conference, before issuing fresh orders within a period of three months from the date of receipt of a copy of this order.

6. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

13.06.2024

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

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SENTHILKUMAR RAMAMOORTHY,J

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To

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