IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2024

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THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.15257 of 2024
and
W.M.P.Nos. 16742 & 16743 of 2024

Amit Ucchabraj Jain ... Petitioner

Versus

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

2.Income Tax Officer,
Non-Corporate Ward – 11(1),
No.120, BSNL Building,
62, Greams Road,
Thousand Lights,
Chennai – 600 006. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 1st Respondent and quash impugned order in ITBA/AST/S/143(3)/2023-24/1063071607(1) dated 21.03.2024 under section 143(3) r.w.s 144B of the Income Tax Act,1961 passed by the 1st Respondent for the Assessment year 2022-23 as illegal and consequently direct the 1st Respondent to complete the assesment for the assessment year 2022-23 afresh after granting reasonable/sufficient opportunity of hearing and pass such further or other orders that this Honorable court may deem fit and proper.

For Petitioner	:	Mr. R. Sivaraman
For Respondents	:	Dr. B. Ramaswamy, Senior Standing Counsel

ORDER

An assessment order dated 21.03.2024 relating to assessment year 2022-23 is assailed on the ground of breach of principles of natural justice.

2. The petitioner filed his return of income for the above mentioned assessment year on 20.09.2022. A notice under Section 143(2) of the Income Tax, 1961 was issued on 01.06.2023. This was followed by multiple notices under Section 142(1). The petitioner responded to these notices. Being dissatisfied with the petitioner's reply, show cause notice dated 04.03.2024 was issued calling upon the petitioner to respond thereto on or before 07.03.2024. The petitioner requested for an adjournment on account of the ill-health of his son. By communication dated 08.03.2024, the time for responding to the show cause notice was extended up to 10.03.2024. Eventually, the impugned order was issued on 21.03.2024.

3. Learned counsel for the petitioner referred to the show cause notice and the letter dated 08.03.2024 granting time up to 10.03.2024. He pointed out that the said letter was uploaded at about 6.15 P.M on 08.03.2024 and that 09.03.2024 and 10.03.2024 were Saturday and Sunday. He also submitted that the petitioner's son, who is about 8 years old, was admitted in multiple hospitals because he was suffering from acute hepatitis. Eventually, he points out that the petitioner's son underwent liver transplant operation. He placed reliance on the discharge summaries of the hospitals in this regard. For these reasons, learned counsel submits that an opportunity be provided to the petitioner to respond to the show cause notice and contest the proposed variations on merits.

4. Dr. B. Ramaswamy, learned senior standing counsel, accepts notice for the respondents. By referring to the impugned order and the table of opportunities set out therein, he points out that multiple notices were issued to the petitioner between 01.06.2023 and 31.01.2024 before the show cause notice dated 04.03.2024 was issued. He points out that notice under Section 143(2) dated 01.06.2023 was not replied to. He also

points out that the petitioner's replied to the centralized communication on four different dates. Learned senior standing counsel further submits that the petitioner belongs to the high networth category and that such persons engage the services of professionals, such as chartered accountants, to contest tax proceedings. In these circumstances, he submits that no interference is warranted.

5. The assessment order discloses that the petitioner had responded to notices dated 12.06.2023. 18.09.2023, and 30.01.2024. The show cause notice was issued on 04.03.2024. The petitioner has placed on record the discharge summary from Prashanth Multispecialty Hospital. Such discharge summary indicates that the petitioner's son was admitted on 20.02.2024 and discharged on 26.02.2024. The discharge summary of Dr. Metha's Hospital indicates that the petitioner's son was admitted on 26.02.2024 and discharged on 04.03.2024. The discharge summary from Rela hospital indicates that the petitioner's son was admitted on 13.03.2024 and discharged on 27.03.2024.

6. The above periods coincide with the period of issuance of the

show cause notice and period where the petitioner was called upon to reply to such show cause notice. The discharge summary from Rela hospital clearly shows that the petitioner's son underwent a liver transplant surgery. The documents placed on record by the petitioner, thus, make out a compelling case to provide another opportunity to the petitioner to contest the tax demand on merits.

7. For reasons set out above, the impugned order dated 21.03.2024 is set aside and the matter is remanded for reconsideration. The petitioner is permitted to submit a reply to the show cause notice within 15 days from the date of receipt of a copy of this order. To enable the petitioner to upload the same, the respondents are directed to provide access to the portal. Upon receipt of the petitioner's reply, the first respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing through video conference, and thereafter issue a fresh assessment order within three months from the date of receipt of the petitioner's reply.

8. The Writ Petition is disposed of on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous

petitions are also closed.

20.06.2024

Index :No
Speaking
Neutral Case Citation : No

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