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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.35130 of 2023
and
W.M.P. Nos.35115 and 35120 of 2023

Gopal Vijaykumar ... Petitioner

Vs.

1.The Commissioner of Income Tax (Appeals),
National Faceless Appeal Centre (NFAC),
Income Tax Department,
New Delhi.

2.Assessment Unit,
Income Tax Department,
New Delhi. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the issuance of appellate order bearing DIN and Order No.ITBA/NFAC/S/250/2023-24/1056291473(1) dated 20.09.2023 passed by the 1st Respondent herein and quash the same.

For Petitioner : Ms.P.S.Sri Harini

For Respondents : Dr.B.Ramaswamy
Senior Standing Cousel

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ORDER

The present writ petition has been filed challenging the impugned order of the First Appellate Authority dated 20.09.2023 on the limited ground that the impugned order has been filed without granting the petitioner an opportunity of hearing and thus is contrary to the mandate contained in Section 250(1) and (2) of the Income Tax Act, 1961 (hereinafter referred to as "the Act").

2. It is submitted by the learned counsel for the petitioner that no hearing notices were issued and would also take this Court through the order to indicate that there is not even a whisper of the hearing notice for the personal hearing was actually issued.

3. To the contrary, the learned Senior Standing Counsel for the Respondents would submit that notice under Section 256 of the Act was issued on various dates and petitioner also filed written submissions and would further submit that the order is in compliance with the mandate contained in Section 250 of the Act.

4. I am afraid that Section 250 of the Act expressly provides for a personal hearing and there is nothing on record to indicate that an opportunity of personal

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hearing was in fact granted. Therefore, the impugned order is set aside on the limited ground that the assessing authority has proceeded to pass the impugned order without granting personal hearing. The matter is remanded back to the assessing authority to re-hear the matter and pass orders afresh after granting the petitioner an opportunity of hearing in accordance with law and in particular Section 250 of the Act.

5. Accordingly, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

05.11.2024

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
mka

To:
1.The Commissioner of Income Tax (Appeals),
National Faceless Appeal Centre (NFAC),
Income Tax Department,
New Delhi.

2.Assessment Unit,
Income Tax Department,
New Delhi.

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MOHAMMED SHAFFIQ, J.

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