BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.7316 of 2024
and
W.M.P.(MD)Nos.6732 and 6733 of 2024

Shanmuga Agencies,
Represented by its Partner,
S.Rajinikanth ... Petitioner

Vs.

The Assessment Unit,
Income Tax Department,
New Delhi. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records of the respondent bearing DIN No.ITBA/AST/S/147/2023-24/1061849679(1) dated 01.03.2024 and consequential Notice of Demand dated 01.03.2024 bearing DIN No.ITBA/AST/S/156/2023-24/1061849815(1) and to quash the same.

For Petitioner : Mr.Bhagavath Krishnan
For Mr.Srinath Sridevan
Senior Counsel

For Respondent : Mr.N.Dilip Kumar
Standing Counsel

O R D E R

This Writ Petition is filed challenging the order dated 01.03.2024 for the assessment year 2019-2020 on the premise that the impugned order has been passed in violation of principles of natural justice.

2. It is submitted by the learned counsel for the petitioner that the impugned order of assessment is challenged on the short ground that it has been made without affording the petitioner a reasonable opportunity of hearing. Pursuant to the notice dated 02.02.2024, the petitioner submitted his reply on 07.02.2024 and also requested for personal hearing and the same was granted on 26.02.2024 via Video Conference. The learned counsel for the petitioner would submit that although the petitioner opted for the same, no personal hearing was possible through Video Conference in view of technical glitches. The petitioner was under the *bona fide* belief that another personal hearing would be granted. However, the impugned order has been passed without granting any further personal hearing. It was thus submitted that the impugned order suffers from gross violation of principles of natural justice and the same is liable to be set aside.

3. To the contrary, it was submitted by the learned Standing Counsel for the respondent that the petitioner was granted opportunity and the petitioner had also made their submission and therefore there is no necessity for further personal hearing.

4. Heard the submissions made on both sides and perused the materials on record.

5. I find there is some merit in the submission of the learned counsel for the petitioner inasmuch as the Assessing Officer having granted personal hearing ought to have ensured that the above hearing is not an empty formality. Further, the petitioner could not avail the opportunity of personal hearing on account of some technical glitches. Thus, it is incumbent on the Assessing Authority to refix the personal hearing on some specified date and failure to do so, results in violation of natural justice, thereby vitiating the impugned proceeding.

6. In view thereof, the impugned order dated 01.03.2024 and consequential Notice of Demand dated 01.03.2024 are set aside. The respondent authority may proceed to complete the assessment from the stage of personal hearing. The petitioner shall co-operate with the assessment proceedings without seeking any adjournments.

7. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

29.08.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

<u>To:</u>

The Assessment Unit,
Income Tax Department,
New Delhi.

MOHAMMED SHAFFIQ, J.

Nsr

W.P.(MD)No.7316 of 2024

29.08.2024