BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.06.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

**W.P.(MD) No.12832 of 2024**
**and**
**W.M.P.(MD) Nos.11413 and 11414 of 2024**

Arunachalam Natarajan ... Petitioner

/vs./

1.Assessment Unit
Income Tax Department,
New Delhi

2.The Income Tax Officer,
Ward 2(1), Trichy.
*(R2 has been suo motu impleaded vide order dated 18.06.2024)*

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records on the file of the Respondent and quash the impugned order in ITBA/AST/S/147/2023-24/1061488148(1) dated 26.02.2024 under section 147 r.w.s. 144 r.w.s 144B of the Income Tax Act, 1961 passed by the Respondent as illegal and not in accordance with law.

For Petitioner : Mr.Raghav Menon for
Mr.R.Sivaraman

For Respondent : Mr.N.Dilip Kumar
Senior Standing Counsel

**ORDER**

The writ petition is disposed of at the time of admission after hearing the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

2.In this writ petition, the petitioner has challenged the impugned order dated 26.02.2024 passed under Section 147 r/w 144 r/w 144B of the Income Tax Act, 1961 for the assessment year 2019-20.

3.Relevant portion of the impugned order reads as under:

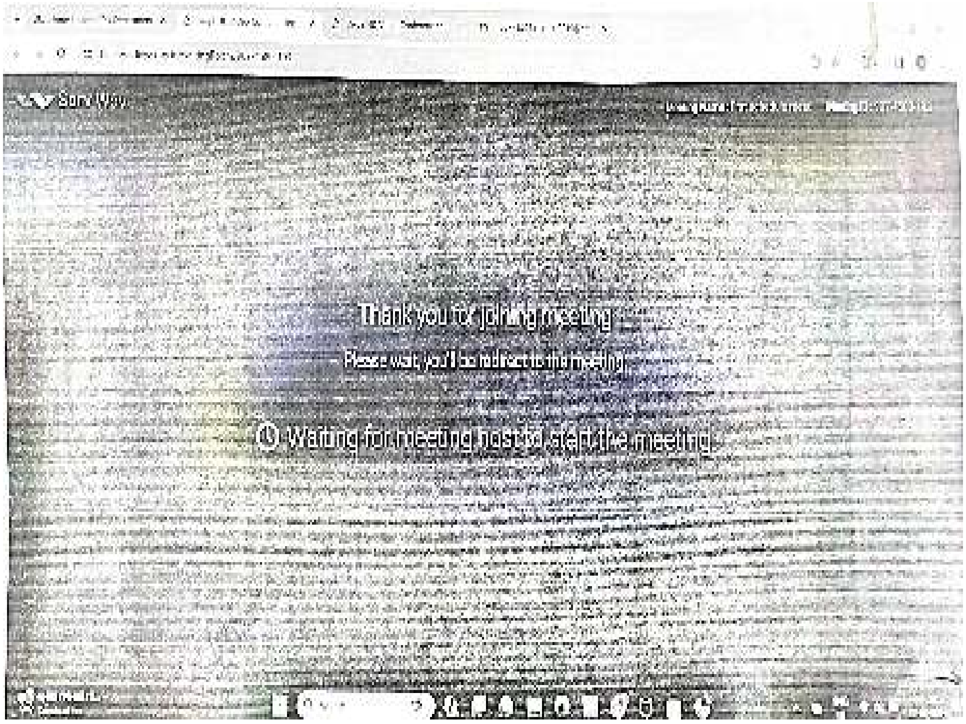
*"The Assessee was issued notice for Video Conference suo moto on 21 01 2024 requiring him to attend the Video Conference on 25.01.2024 at 3:30 PM. The Assessee failed to submit any reply to the notice dated 25.01.2024. The Assessee also failed to attend the Video Conference as scheduled. However, the Assessee sought adjournment again which was granted to him and a letter was issued to him on 25.01 2024 giving him final opportunity to submit reply. The Assessee submitted his reply on 31.01.2024 and submitted Sale deed and water bill of the said property. However, the Assessee failed to submit any*

> *documents with respect to the utilization of the amount equivalent to the money parked in his Capital Account. Further the Assessee sought one more adjournment for a week and requested for another Video Conference which was granted However the Assessee did not attend the segond Video Conference too and till date the Assessee has not submitted any documents."*

4.In this writ petition, the petitioner seeks for quashing of the impugned order, as the petitioner could not fully participate in the personal hearing that was held on 12.02.2024.

5.The learned counsel for the petitioner submits that though there were some delay in submitting the documents, the petitioner made an attempt to participate for the personal hearing fixed on 12.02.2024. However, the petitioner was unable to login.

6.The learned counsel for the petitioner has drawn attention to the screenshot of the e-hearing portal of the personal hearing that was held on 12.02.2024.




7.Thereafter, the first respondent has passed the impugned order on 26.02.2024.

8.On the other hand, the learned Senior Standing Counsel for the respondents would submit that several particulars were given to the petitioner, but the petitioner did not participate in the proceeding and therefore, the petitioner may be relegated to workout his remedy before the Appellate Authority under Section 246A of the Income Tax Act, 1961.

9.I have heard the arguments advanced by the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents.

10.The respondent has passed the impugned order after giving opportunity to the petitioner. The petitioner could not fully participate in the proceeding. The first respondent cannot be fully blamed for passing the impugned order as there was a failure in the system. If no order was passed, the assessment would not have got time barred.

11.Since there is a violation of principles of nature justice due to the error in the system during assessment without allowing the assessee to participate in the personal hearing through video conferencing under the faceless method of assessment, I am inclined to set aside the impugned order by remitting the case back to the respondents to pass a fresh order on merits and in accordance with law, as expeditiously as possible, preferably within a period of 6 months from the date of receipt of a copy of this order. The petitioner shall keep all the records ready as and when intimations are sent by the respondent. *De novo* order shall be passed after giving an opportunity to the petitioner.

12.To facilitate the above, the Income Tax Officer, Ward 2(1), Trichy is *suo motu* impleaded as second respondent in this writ petition.

13.The Writ Petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
mm

**18.06.2024**

**C.SARAVANAN, J.**

mm

**W.P.(MD) No.12832 of 2024**

**18.06.2024**