



*W.P.(MD) No.23442 of 2024*

**WEB COPY** BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**DATED: 11.12.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**W.P.(MD) No.23442 of 2024**

**and**

**W.M.P.(MD) Nos.19849 and 19850 of 2024**

M/S.Dalmia Cement (Bharat) Limited,  
represented by its Deputy Executive Director (Finance)  
and Authorised Signatory Shri. R.Gururajan,  
Dalmiapuram,  
Tiruchirapalli 621 651.

... Petitioner

/vs./

- 1.Board for Advance Ruling,  
Delhi Bench -I,  
CR Building ITO, I P Estate,  
New Delhi 110 002.
- 2.Principal Commissioner of Income Tax -1,  
Madurai,  
CR BLDG, 2, V P Rathinasamy Nadar Road,  
Viswanathapuram,  
Madurai,  
Tamil Nadu 625 002.



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3. Deputy Commissioner of Income Tax Circle 1(1),  
Trichy,  
No.44, Williams Road,  
Cantonment,  
Tiruchirapalli 620 001.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for records on the file of the 1st Respondent and quash the impugned order passed by the 1st Respondent in Unique case No. AADCA9414C/2018/0022/0237 IN Old No. AAr/19/2018 dated 07.08.2024 under section 245R(4) of the Income Tax Act for the assessment year 2018-19 and direct the 1st respondent to pass order afresh after giving an opportunity of being heard to the petitioner.

For Petitioner : Mr.R.V.Eswar Senior Counsel for  
Mr.N.V.Balaji

For R2 & R3 : Mr.N.Dilip Kumar

### **ORDER**

The challenge in the writ petition is to the order made by the first respondent under the provisions of Section 245R(4) of the Income Tax Act, 1961 for the assessment year 2018-19 and to afford an opportunity of hearing afresh and thereafter pass an order in accordance with law.



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2. It is the case of the learned Senior Counsel for the petitioner that no opportunity of hearing had been given to the petitioner. He would submit that even though the petitioner was issued with a notice and he had attempted to join the video conferencing, he was not permitted to join and he had been made to wait and to substantiate his claim, the learned Senior Counsel for the petitioner had produced a screen shot of the web-site, which had indicated that on 05.08.2024, the date of hearing, the petitioner had in fact logged in to the video conference meeting web-site and is waiting for the Organizer to permit him to log in for the hearing.

3. He would submit that the Administrator of the video conferencing meeting had not permitted the petitioner to log himself in for making his submissions and that without hearing the petitioner, the order impugned had been passed on 07.08.2024. Challenging the same, on the sole ground of violation of principles of natural justice, the writ petition had been filed and hence, he would seek this Court to allow this writ petition setting aside the order impugned and remit the matter back to the respondents for providing a fresh hearing.



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4. Countering his arguments, Mr.N.Dilip Kumar, learned counsel appearing on behalf of the respondents 2 and 3 would submit that the petitioner had been taking time on one pretext or the other for the past 6 years of a proceeding which has to be completed within a period of 6 months. He would submit that lame reasons and excuses had always been put forth by the petitioner. He would further submit that even though the screen shot has been produced, there is no evidence that there is a refusal on the side of the Department in letting in the representative of the petitioner to make his submissions.

5. He would submit that this is a delay in tactics on the side of the petitioner in trying to dissuade the first respondent from passing any orders. Therefore, he would submit that there can be no complain of any violation of principles of natural justice and it is always open to the petitioner to file an appeal against the said order, in which also he can raise the similar issues and therefore, would pray this Court to dismiss this writ petition.

6. I have considered the rival submissions made by the learned counsel on either side.



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7. It is not disputed that the hearing had been fixed on 05.08.2024. The learned Senior Counsel appearing for the petitioner had produced the screen shots of the web-site of the portal to substantiate that he had kept himself logged in to make his submissions before the first respondent. It is his case that the petitioner was not allowed to join the video conference by the Organizers, even though the learned Standing Counsel had contended that the conduct of the petitioner himself would be suffice to state that the petitioner was trying to use this as also an opportunity to delay the proceedings of advance ruling. Even though such a stand has been taken, there is no evidence that the petitioner's representative was in fact allowed to join the video conferencing at the given time. When that be so, there is a clear violation of principles of natural justice. The previous conduct of the petitioner now cannot be put against him, as he has attempted to join the video conferencing on the given date of hearing.

8. Therefore, I am inclined to set aside the order impugned and remit the matter back to the first respondent to provide an opportunity of hearing to the petitioner.



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9. At this time, this Court had raised a query to the learned Senior Counsel for the petitioner to give a concrete date, on which the hearings can be conducted. This query was made only for the purpose that tomorrow for some reason or the other, the petitioner should not seek an adjournment before the first respondent. The learned Senior Counsel had suggested that on any of the dates, namely 06.02.2025, 07.02.2025, 13.02.2025 or 14.02.2025, subject to the convenience of the first respondent, the hearing could be conducted.

10. Hence, the first respondent is directed to intimate the date of hearing on any one of the aforesaid dates indicated above and the petitioner shall on the said date make his representation and raise objections before the first respondent. It is made clear that for any reasons, the adjournment should not be sought for by the petitioner on the said date.

11. In fine, the Writ Petition stands allowed. The order impugned herein is hereby set aside and the matter is remitted back to the first respondent with the



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aforesaid directions. However, there shall be no order as to costs. Consequently,  
connected Miscellaneous Petitions are closed.

Index : Yes / No  
Internet : Yes / No  
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**K.KUMARESH BABU, J.**

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