IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.9586 of 2022
and
W.M.P.Nos.9320 and 9321 of 2022

M/s.Srimukha Precision Products,
Represented by its Partner
Mr.Hariharan Ramamoorthy
Plot No.51, X South Phase Road,
Ambattur Industrial Estate,
Chennai – 600 005. ... Petitioner

Vs.

1.The Assistant Commissioner of Income Tax,
Non Corporate Circle 7(1), Che
No.121, Mahatma Gandhi Road,
Nungambakkam,
Chennai – 600 034.

2.The Additional/Joint/Deputy/Assistant Commissioner
of Income Tax/Income Tax Officer,
National Faceless Assessment Centre,
Delhi.

3.The Principal Commissioner of Income Tax
Chennai – 1,
No.121, Mahatma Gandhi Road,
Nungambakkam,
Chennai – 600 034. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the file of the respondents in PAN.No.AAAFS1929A and quash the impugned notice in ITBA/AST/S/148/2020-21/1032089033(1) dated 31.03.2021 for the Assessment Year 2015-2016 issued under Section 148 of the Income Tax Act, 1961 by the 1st respondent and the Impugned Assessment proceedings in ITBA/AST/S/147/2021-22/1040681128(1) dated 14.03.2022 passed by the 2nd respondent.

For Petitioner : Mr.R.Sivaraman

For Respondents : Mr.B.Ramanakumar
Senior Standing Counsel

ORDER

The petitioner has challenged the impugned notice dated 31.03.2021 issued under Section 148 of the Income Tax Act, 1961 under the old regime as it prevail prior to 01.04.2021.

2. The specific case of the petitioner is that though the petitioner asked for reasons for re-opening of the assessment that was earlier

completed, it was not furnished as it could not be downloaded.

3. It is the further case of the petitioner is that the respondents have issued Show Cause Notice on 01.03.2022 which was also replied on merits on 05.03.2022, well before the time prescribed for responding on 07.03.2022 and before personal hearing.

4. It is the further case of the petitioner is that in the reply itself, the petitioner has requested the respondents to provide an opportunity of being beard which was denied.

5. The learned counsel for the respondents on the other hand would submit that the Writ Petition is devoid of merits, as the petitioner has an alternate remedy under Section 246A of the Income Tax Act, 1961. It is submitted that the dispute pertains to the Assessment Year 2015-2016. The petitioner was furnished all the required documents and the reasons for re-opening of the Assessment.

6. It is further submitted that the petitioner has also responded to

the Show Cause Notice dated 01.03.2022 by a detailed reply dated 05.03.2022. Therefore, it is submitted that it cannot be said that there has been any violation of principles of natural justice.

7. That apart, the notice itself stipulated that if required, after filing written reply, the petitioner had to request for a personal hearing to make order submission in the case.

8. It is further submitted that the petitioner can request for Video Conferencing by clicking the Seek Video Conferencing button available against the Show Cause Notice in the dash board. In this case, the petitioner has not opted for personal hearing by pressing/clicking the Seek Video Conferencing button available in the Show Cause Notice in the dash board and therefore it should be construed on the petitioner had waived personal hearing by not clicking the aforesaid button.

9. Having considered the arguments advanced by the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents, this Court is of the view that the petitioner deserves a

chance. Assessment has been completed under the National Faceless Assessment under Section 144B of the Income Tax Act, 1961. The authorized representatives were still getting used to the format. There could be some mistake on the part of the petitioner as the petitioner did not opted to press the click button option for Video Conferencing. However, it is evident that reply dated 05.03.2022, the petitioner had requested for the personal hearing. This ought to have been considered by the Assessing officer before passing the impugned order. Thus, there is a palpable violation of principles of natural justice.

10. Further, the impugned order has been passed during the initial stage after Faceless Assessment was introduced. The failure of the petitioner to press the click option for Video Conferencing that was available has resulted in denial of personal hearing. It is further noticed that the petitioner has not been furnished with the reasons for reopening of the assessment under the old regime as it prior to 01.04.2021.

11. Considering the over all facts and circumstances, the impugned order is set aside and the case is remitted back to the respondents to

consider the objections of the petitioner for reopening of the assessment and thereafter proceed to pass a fresh order on merits and in accordance with law as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of this order. Needless to state, the petitioner shall also be heard before final orders are passed.

12. This Writ Petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

30.01.2025

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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C.SARAVANAN, J.

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