IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-03-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 10815 of 2025
AND
WMP NO. 12183 OF 2025,WMP NO. 12180 OF 2025

Uma Sowmya Shankar
No.2, Thiruvalluvar Street,
Keelkattalai, Chennai 600 117.

Petitioner(s)

Vs

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

2.Income Tax Officer
Office of the Income Tax Officer,
Non Corp WD 22 (4) TBM, Chennai.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for records and to quash the order passed by the 1st Respondent under Section 250 of the Income

Tax Act, 1961 dated 19.02.2024, bearing DIN and Order No. ITBA /NFAC/S/ 250/ 2023- 24/ 1061127826 (1) and all subsequent proceedings arising from the impugned order and direct the Respondent to grant a fair hearing.

For Petitioner(s) : Mr.Clint Li Johny

For Respondent(s) : Mr.D.Prabhu Mukunth Arunkumar
Junior Standing Counsel

ORDER

This writ petition has been filed by the petitioner seeking to call for records and to quash the order passed by the 1st Respondent under Section 250 of the Income Tax Act, 1961 dated 19.02.2024, bearing DIN and Order No. ITBA /NFAC/S/ 250/ 2023- 24/ 1061127826 (1) and all subsequent proceedings arising from the impugned order and direct the Respondent to grant a fair hearing.

2.Mr.D.Prabhu Mukunth Arunkumar, learned Junior Standing Counsel (Taxes) takes notice on behalf of the respondents. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3.Learned counsel for the petitioner would submit that the petitioner is an individual assessee. The respondent issued show cause notice dated 03.03.2021, regarding the large cash payment made for credit card purchase. In response, the petitioner filed her reply. The respondent has accepted the explanation given by the petitioner for the part of the proposal to the tune of Rs.7,94,504/-. However, the respondent confirmed the proposal to the tune of Rs.14,36,657/- stating that the assessee failed to establish the source of cash payment of Rs.14,36,567/- and issued the demand notice dated 17.03.2021. Against which, the petitioner filed an appeal before the 1st Appellate Authority and she has also filed the written statement. The 1st Appellate Authority without providing an opportunity of personal hearing, had dismissed the appeal vide order dated 19.02.2024. After the filing of written statement, it is mandatory to provide the personal hearing opportunity, which has not been done in the present case. Hence, he prayed to set aside the impugned order and remand the matter back for fresh consideration after providing an opportunity of personal hearing.

4.Mr.D.Prabhu Mukunth Arunkumar, learned Junior Standing Counsel appearing for the respondent would fairly submit that no opportunity of personal hearing was provided to the petitioner after the filing of written statement and the Court may pass the appropriate order.

5.Heard the learned counsel for the petitioner as well as the learned Junior Standing Counsel appearing for the respondents and perused the materials available on record.

6.Considering the above submissions, it is evident that the 1st Appellate Authority has not provided an opportunity of personal hearing before passing the final order. In the present case, the main grievance of the petitioner is with regard to the failure to grant an opportunity of personal hearing before passing an order. It is mandatory to afford an opportunity of personal hearing before passing an order adverse to the petitioner. Thus, this Court is of the view that the 1st Appellate Authority has erred in not granting an opportunity of personal hearing to the petitioner and hence, the impugned order is liable to be set aside.

Accordingly, this Court passes the following order:-

(i)The order impugned herein is set aside with regard to the merits of the appeal alone. This Court is not inclined to interfere with the decision of the 1st Appellate Authority regarding the condonation of delay.

(ii)The matter is remanded back to the respondent for re-consideration.

(iii)The respondent shall fix the date of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

7.With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

27-03-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

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To

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

2.Income Tax Officer
Office of the Income Tax Officer,
Non Corp WD 22 (4) TBM, Chennai.

KRISHNAN RAMASAMY J.

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