IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

**W.P.No.10377 of 2022**
**and**
**W.M.P.Nos. 10098 and 10101 of 2022**

Periyadurai Sadayappan ...Petitioner

Vs.

1. Income Tax Officer,
   Ward 2 (1),
   Erode-638 001.

2. Additional/Joint/Deputy/Assistant Commisioner
   of Income Tax/Income-tax Officer,
   National Faceless Assessement Centre,
   New Delhi-110 001. ...Respondents

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the 2nd Respondent in ITBA/AST/S/147/2021-22/1041826847(1) dated 28/03/2022, quash the same and consequently direct the respondents to consider the replies given by the petitioner dated 06/12/2021, 21/03/2022, 23/03/2022 and 28/03/2022 and pass fresh orders in respct of Proceedings pursuant to Notice dated 29/03/2021 in No.ITBA/AST/S/148/2020/-21/1031871153 in accordance with law.

For Petitioner : M/s.G.R.Associates

For Respondents : Dr.B.Ramaswamy
Senior Standing Counsel

**ORDER**

The challenge in this Writ Petition is to the order dated 28.03.2022 passed by the 2nd respondent and to quash the same and consequently direct the respondents to consider the replies given by the petitioner dated 06/12/2021, 21/03/2022, 23/03/2022 and 28/03/2022 and pass fresh orders in respect of Proceedings pursuant to Notice dated 29/03/2021 in No.ITBA/AST/S/148/2020/-21/1031871153 in accordance with law.

2. The learned counsel for the petitioner would submit that the 2nd respondent has issued notice to the petitioner on 29.03.2021, for which the petitioner submitted its replies on 06/12/2021, 21/03/2022, 23/03/2022 and 28/03/2022. Subsequently, the 1st respondent passed the impugned order on

28.03.2022, stating that the petitioner has not filed any reply.

3.Further, he would submit that the impugned order suffers from violation of principles of natural justice and is liable to be set aside, as the petitioner has not been afforded with any opportunity of personal hearing. That apart in the impugned order, the reply filed by the petitioner was not recorded. He therefore prays to set aside the same.

**4.** The learned Senior Standing Counsel for the respondents would submit that despite sufficient opportunities being granted to the petitioner,the petitioner failed to submit his reply. Howerver, he fairly submitted that one more opportunity may be given to the petitioner to substantiate its case.

5. Heard both sides. Perused the records.

**6.** In the impugned order, the 1st respondent has stated that despite sufficient opportunities being granted to the petitioner, the petitioner had not filed his reply, but a perusal of the records shows that the petitioner has filed his replies on 02.03.2022 21.03.2022 and 25.03.2022. But, the 1st respondent withtout taking note of the same has passed the impugned order. That apart, if the respondents intend to confirm the demand, they ought to have provide an opportunity of personal hearing, as per Section Section 75 (4) of the CGST Act, 2017. That apart, it is settled law that violation of principles of natural justice is a failure of due process. If any order is passed against the petitioner with demand, that order has to be passed after giving an opportunity of personal hearing to the petitioner otherwise, it will amount to depriving the interest of the petitioner and the same amounts to violation of principles of natural justice.

7. In the case on hand, the impugned order was passed without taking notice of the replies filed by the petitioner and also without giving an opportunity of personal hearing to the Petitioner and therefore the same is liable to be set aside. Accordingly, this Court passes the following order:

> (i) The impugned order dated 25.02.2025 is set aside and the matter is remanded back to the Respondents, subject to the payment of a sum of

Rs.5,000/- to the Adyar Cancer Institute, situated at Chennai,, within a period of 2 weeks from the date of receipt of copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) Upon production of proof with regard to the payment of a sum of Rs.5,000/- as stated above, the Respondents shall activate the Departmental portal, within a period of ***two weeks***, in order to enable the petitioner to file his reply.

(iii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iv) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice by fixing the date of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, within a period of eight weeks from the date of receipt of a copy of this order.

**8.** With the above observations & directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

**09.06.2025**

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Index : yes/no
Neutral Citation : yes/no

To

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   Ward 2 (1),
   Erode-638 001.

2. Additional/Joint/Deputy/Assistant Commisioner
   of Income Tax/Income-tax Officer,
   National Faceless Assessement Centre,
   New Delhi-110 001.

**Krishnan Ramasamy,J.,**

arr

**W.P.No.10377 of 2022**

**09.06.2025**