IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **24.04.2025**

CORAM :

**THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY**

**Writ Petition No.12719 of 2025**
**and W.M.P.No.14303 of 2025**

Rajesh Kumar ... Petitioner

Vs.

1. The Assessment Unit,
   Income Tax Department,
   New Delhi.

2. Assistant Commissioner of Income Tax,
   Non-Corporate Circle 4(1)
   No.121, Mahatma Gandhi Road,
   Nungambakkam, Chennai - 34. … Respondents

**PRAYER:** Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari, calling for the records on the file of the 1st Respondent in Pan No: AAGPR1011C and quash the impugned order in ITBA/AST/S/143(3)/2024-25/1074303433(1) dated 10.03.2025 passed under Section 143(3) r.w.s 144B of the Income-tax Act, 1961 for the AY 2023-24 by the 1st Respondent as illegal and not in accordance with law.

For Petitioner : Mr.Raghav Rajeev Menon

For Respondents : Dr.B.Ramaswamy,
Senior Standing Counsel

**ORDER**

Challenging the impugned order dated 10.03.2025 passed by the first respondent relating to the assessment year 2024-25, the petitioner had filed the present Writ Petition.

2. The learned counsel for the petitioner submitted that the first respondent has issued the show cause notice on 24.02.2025 under Section 144 of the Act, calling upon the petitioner to file its reply on 02.03.2025 by 13:42 hours. Due to ill health of the petitioner, he was unable to file reply to the show cause notice issued by the first respondent and made request on 08.03.2025 and sought five more days to file the reply. However, without considering the request made by the petitioner and without providing personal hearing to the petitioner, the present impugned order dated 10.03.2025 came to be passed by the first respondent.

3. The learned counsel for the petitioner would further submit that on previous occasion, the petitioner had already participated and filed the reply and produced the relevant documents. Further, he would submit that the petitioner had genuinely asked reasonable time to file reply to the show cause notice and the same was not entertained and the impugned order was passed. Hence, he prayed for appropriate orders from this Court.

4. On the other hand, Dr.B.Ramaswamy, learned Senior Standing Counsel appearing for the respondents strongly opposed for remanding the matter for re-consideration. Since the respondents had granted sufficient opportunity by providing six days of time, the petitioner came forward leisurely only on 08.03.2025 and had requested some more time. He submitted that there is no genuine reason on the part of the petitioner, and thus, the impugned order was passed. Hence, he prayed for dismissal of the present Writ Petition.

5. He further submitted that, in the event, this Court is inclined to remand the matter, the same may be considered, subject to the payment Rs.50,000/- as costs.

6. Heard both sides and perused the materials available on record.

7. In the present case, it appears that the final show cause notice dated 24.02.2025 was issued by directing the petitioner to submit their reply on 02.03.2025. According to the petitioner, he was unable to file a reply on account of his ill-health and on 08.03.2025 a request was made to the respondents to grant further time for filing the reply. However, the same was not considered and the impugned assessment order was passed on 10.03.2025. The total assessment is about Rs.11,73,15,099/- and the final demand was confirmed by the first respondent. This Court is of the view that the respondents are supposed to duly comply with the provisions including to consider the request of the petitioner for filing the reply to the show cause

notice and for affording personal hearing. Merely passing the order only fulfilling the empty formalities, ultimately, in the Court of law, it would not serve any purpose and the same is liable to be quashed on the ground of violation of principles of natural justice. That apart passing the assessment order in violation of principles of natural justice not only affect the rights of the petitioner, if the Writ Petition is dismissed, the right of the revenue will get affected prejudicially. In the event, the petitioner filing an appeal either before the Appellate Authority or the tribunal, on the ground of violation of principles of natural justice, there is a chance for quashing the assessment order itself, in which case, no doubt, the interest of the revenue would get affected and by passing the present order, it will give an opportunity to the revenue to set right their defects in passing the orders. Infact, in the present case, challenging the impugned order by the petitioner, they are protecting the interest of the revenue. Therefore, the impugned order is liable to be set aside on the ground of violation of principles of natural justice. Accordingly, this Court passes the following orders:

(i) The impugned assessment order dated 10.03.2025 is set aside, subject to the payment of Rs.40,000/- to the credit of the Principal, Government of Naturopathy Medical College and Hospital [Account No.7883022723, IFSC Code:IDIB000M157], within a period of two weeks from the date of receipt of a 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 such payment made, and once the portal made available, the petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the first respondent shall consider the same and issue a 14 days clear notice, fixing the date for 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.

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

**24.04.2025**

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

To:

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   Income Tax Department,
   New Delhi.

2. Assistant Commissioner of Income Tax,
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   No.121, Mahatma Gandhi Road,
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**KRISHNAN RAMASAMY, J.**

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