IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 25.04.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.13739 of 2025
and
W.M.P.No.15431 of 2025

Muthusamy Meenakshisundaram
S/o. Muthusamy No. 10/532-F1
Sri Mahalakshmi Nagar,
Palladam Road Veerapandi
Tiruppur - 641 605. ...Petitioner

Vs.

Assessment Unit
Faceless Assessment Department
Income Tax Department
2nd Floor E-Ramp Jawaharlal Nehru Stadium
New Delhi- 110 003. ...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records of the Respondent leading to issuance of Impugned Order dated 24.03.2025 (vide ITBA/AST/S/147/2024-25/1074928146(1))and quash the same

For Petitioner : Mr.K.M.C.Arun Mokan

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

<u>Order</u>

Heard Mr.K.M.C.Arun Mokan learned counsel appearing for the petitioner and Dr.B.Ramaswamy, learned Senior Standing Counsel who takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order passed by the respondent dated 24.03.2025 and to quash the same.

3. The learned counsel appearing for the petitioner assailed the order passed by the respondent dated 24.03.2025 on the ground that the same has been passed in violation of principles of natural justice as the petitioner has not been heard before passing the same and hence, seeks for setting aside the said impugned order.

4. The learned Senior Standing Counsel for the respondent-Income Tax Department though raised strong objection to the contention of the petitioner by stating that personal hearing opportunity was granted to the petitioner vide notice dated 17.03.2025, and it is the petitioner, who, failed to utilize the same, hence, the respondent passed the impugned order, however, fairly submitted that in the event, this Court is inclined to set aside the impugned order, the same may be done by imposing certain condition on the petitioner.

5. I have given due consideration to the submission made by the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondent and perused the materials available on record.

6. On a perusal of records, it is seen that the respondent issued a notice dated 14.08.2024 under Section 142(1) of the Income Tax Act, on the alleged ground that the petitioner has involved in bogus transaction. The petitioner, on receipt of such notice, filed a reply/explanation along with relevant documents. After certain exchange of communications between the petitioner and the respondent, a show cause notice dated 24.02.2025 was issued by the respondent, to which, the petitioner filed a reply on 13.03.2025, thereby, requesting the respondent to fix video conference(personal hearing). The respondent issued a notice dated 17.03.2025, fixing the schedule for video conference on 18.03.2025. Unfortunately, on the said date, the petitioner was suffering from ill-health and was unable to prepare for personal hearing, and hence, requested the respondent to re-schedule the personal hearing on 25.03.2025. However, the respondent, without acceding to such request made by the petitioner passed the impugned order.

6.1 It would not be out of place to mention here, when it comes to income tax assessments, the Assessing Officer is expected to do certain exercise by abiding the principles of equity and natural justice, so as to ensure that assessments are done in an equitable manners, by giving the assesees, their right to show cause as to why, the proposal contained in the show cause notice should not be confirmed, by providing the assessees sufficient time and opportunity to putfoth their case and evidence and let the assessee to defend themselves before passing any adverse order.

6.2 In the present case, the aforesaid exercise has not been carried out by the respondent, since, it is seen that though the date, on which, personal hearing was fixed, i.e. on 18.03.2025, the petitioner was not able to appear, when the petitioner has made a specific request request to re-fix the personal hearing on some other day, it is not known, as to what prevented the respondent from granting alteast 7 days' time to the petitioner/assesse to defend their case, instead, the respondent proceeded to pass the impugned order itself on 24.03.2025. Therefore, as rightly contended by the learned counsel for the petitioner the impugned order suffers from gross violation of principles of natural justice and hence, this Court is inclined to set aside the same, however, with certain condition.

6.3 Accordingly, this Court is inclined to pass/issue the following order/directions:-

i) The impugned order passed by the respondent 24.03.2025 is set aside.

ii) The matter is remanded to the respondent for fresh consideration, however, the same is subject to the condition that the petitioner pays a sum of Rs.5,000/-(Rupees Five Thousand only) as costs to the Principal Government Naturopathy Medical College and Hospital, bearing Account No.7883022723, IFSC Code: IDIB000M157 within a period of four weeks from the date of receipt of a copy of this order.

iii) Upon production of proof with regard to the payment made by the petitioner, the respondent is directed to afford an opportunity of personal hearing to the petitioner by issuing a 14 clear days notice and thereafter, shall hear the petitioner in full and decide the matter in accordance with law.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petition is closed.

25.04.2025

sd

Index : yes/no
Neutral Citation : yes/no

To

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Krishnan Ramasamy,J.,

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