IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-04-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 13810 of 2025
AND
WMP NO. 15505 OF 2025 & WMP NO. 15506 OF 2025

Shiva Texyarn Limited
Represented by its Managing Director,
Shri.S K Sundararaman
Having its Registered Office at
52, East Bashyakaralu Road,
R.S Puram, Coimbatore - 641 002.

Petitioner(s)

Vs

1. The Assessment Unit
Income Tax Department,
Government of India,
Ministry of Finance, New Delhi.

2.The Deputy Commissioner of Income Tax
Corporate Circle - 1,
No 63, Race Course Road,
Coimbatore - 641 018.

Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus, calling for the records on the file of the 1st Respondent in DIN ITBA/AST/S/143(3)/2024-25/1074450361(1) vide order dated 13.03.2025 passed u/s.143(3) read with Section 144B of the Income Tax Act, 1961 and quash the same as illegal, arbitrary and devoid of merit, and consequently, direct the 1st Respondent to consider the case for fresh adjudication providing an opportunity of hearing to the Petitioner in accordance with the provisions of law and pass.

For Petitioner(s): Mr.T.Banusekar

For Respondent(s): Dr.B.Ramaswamy,
Senior Standing Counsel

ORDER

The present Writ Petition is filed challenging the order dated 13.03.2025 passed by the first respondent, relating to the assessment year 2023-24, on the ground of violation of principles of natural justice.

2. Dr.B.Ramaswamy, learned Senior Standing Counsel, takes notice on behalf of the respondents. By consent of the parties, the main Writ Petition is taken up for final disposal at the time of admission stage itself.

3. The learned counsel for the petitioner submitted that the petitioner is a

company engaged in textile and garment manufacturing and electricity production and is registered under the Goods and Services Tax Act, 2017. During the relevant period 2023-24, the petitioner had filed its returns and paid appropriate taxes. However, during the scrutiny of returns, certain discrepancies were noticed in respect of the impugned assessment period.

4. It was further submitted that subsequently, a show cause notice was issued to the petitioner on 28.11.2024, directing the petitioner to file a reply through registered e-filing account on or before 04.12.2024 by 11.00 hours. Accordingly, the petitioner filed its reply on 04.12.2024 and also made a request for hearing through video conferencing in the Income Tax Portal. Thereafter, the first respondent issued an intimation on 09.12.2024, providing an opportunity of hearing through video conferencing by fixing the date as 30.12.2024 at 02.39 p.m. The petitioner's authorized representative logged in via the link provided at 02.29 p.m., on the scheduled date and waited till 3.15 p.m., no one was present and therefore, without any other option, he had signed out from the video conferencing in the portal.

4.1. It was also submitted that on 31.12.2024, the petitioner had duly notified the non-appearance of the 1st respondent for the personal hearing through video conferencing through an e-mail, by attaching a screenshot evidencing the same, for which, the 1st respondent replied on 07.01.2025, requesting the petitioner to re-send submissions along with requisite documents. In compliance with the mail received on 07.01.2025, the petitioner had resent all the submissions filed on 04.12.2024 via e-mail dated 17.01.2025, 31.01.2025 and 07.02.2025 for the said show cause notice and once again, made a request for video conferencing. However, without providing an opportunity of hearing through video conferencing, the present impugned order came to be passed by the first respondent on 13.03.2025, which results in violation of principles of natural justice and the same is liable to be set aside with a direction to provide an opportunity of hearing through video conferencing.

5. When the matter was taken up for hearing on 17.04.2025, the matter was argued and the learned Senior Standing Counsel appearing for the

respondents submitted that though many occasions, the first respondent has provided video conferencing facilities and it was not the case that the respondents have not at all provided any facility through video conferencing. He also submitted that, after providing sufficient opportunity of hearing to the petitioner, the present impugned order came to be passed by the first respondent. Hence, he prayed for dismissal of the present Writ Petition.

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

7. It appears that a show cause notice was issued to the petitioner on 28.11.2024, directing the petitioner to file a reply on or before 04.12.2024. Thereafter, on 09.12.2024, an intimation notice was issued to the petitioner by fixing the date of personal hearing through video conferencing on 30.12.2024 at 2.39 p.m. The petitioner was present at the time of video conferencing, however, none appeared on behalf of the respondents to hear the petitioner's case. In this regard, the petitioner sent detailed e-mails on 31.12.2024 and 06.01.2025 with regard to non-availability of the respondents when the

petitioner appeared through video conferencing. Under these circumstances, the respondents have sent two e-mail communications on 02.01.2025 and 07.01.2025, directing the petitioner to re-send the reply. The petitioner re-sent the reply on 17.01.2025 and thereafter, the petitioner requested for video conferencing on 07.02.2025. However, without considering the request by the petitioner and without providing any opportunity of hearing through video conferencing, the present impugned order came to be passed on 13.03.2025.

8. This Court is of the view that the impugned order is passed in violation of principles of natural justice and the same is liable to be set aside. Accordingly, this Court passes the following directions/orders:

(i) The impugned order dated 13.03.2025 is set aside and the matter is remanded to the authority concerned for fresh consideration.

(ii) The first respondent is directed to provide an opportunity of hearing through video conferencing by issuing 14 days clear notice with proper communication and thereafter, the first respondent is directed to pass a fresh assessment order in accordance with law.

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

29-04-2025

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

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KRISHNAN RAMASAMY J.

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