IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2025

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The HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Writ Petition No.15994 of 2025
and
WMP.Nos.18102 & 18110 of 2025

Thiru.G.Pradhap Chandran ...Petitioner

Vs.

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

2. National Faceless Assessment Centre,
   Income Tax Department, New Delhi.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari calling for the records and to quash the impugned proceedings of the first respondent in DIN.No.ITBA/AST/S/143(3)/2024-25/1074452849(1) dated 13.03.2025 and the consequential impugned proceedings of the first respondent of Demand Notice in DIN and Notice No.ITBA/AST/156/2024-25/1074452920(1) dated 13.03.2025 and consequently pass order / orders as this Court may deem fit and proper in the facts and circumstances of the case and render justice.

For Petitioner	:	Mr.S.Raveekumar for Mr.M.Hariharan
For Respondents	:	Dr.B.Ramaswamy, Senior Standing Counsel

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O R D E R

This Writ Petition has been filed challenging the impugned order and the consequential demand notice of the 1st respondent dated 13.03.2025 and to quash the same.

2. The learned counsel for the petitioner would submit that the petitioner issued show cause notice dated 08.02.2025 to the petitioner alleging seven defects, for which the petitioner submitted his reply on 16.02.2025. But, without considering the reply the 1st respondent passed the non speaking and cryptic order pointing out 12 queries 13.03.2025 on 13.03.2025 followed by demand notice dated 13.03.2025 and the same are impugned in this writ petition.

3. Further, he would submit that though the petitioner filed the reply containing 1000 pages, the same were not taken note of by the 1st respondent while passing impugned assessment order. That apart,the 12 queries pointed out by the 1st respondent in the impugned order were not pointed out in the show cause notice. He also added that opportunity of personal hearing has not been granted to the petitioner before passing the impugned assessment order. Therefore, the learned counsel would submit that the impugned assessment order suffers from violation of principles of natural justice. He further contended that had the petitioner been provided with an opportunity of personal hearing, the petitioner can very well produced the documents which are referred in the impugned assessment order. He therefore prays to set aside the impugned assessment order and the demand notice.

4. On the other hand Dr.B.Ramaswamy, learned Senior Standing Counsel appearing for the respondents strongly opposed the aforesaid contentions made by the learned counsel for the petitioner and submitted that opportunity of personal hearing has been provided to the petitioner

before passing the assessment order. He referred to paragraph 3 of the Show Cause Notice dated 08.02.2025 which reads as follows:

> *"3. Kindly submit your response through your registered e-filing account at www.incometax.gov.in by 11:50 hours on 17.02.2025, whereby you may either:-*
> *a) accept the proposed variation; or*
> *b) file your written reply objecting to the proposed variation; or*
> *c) If required, in addition to filing written reply you may request for personal hearing so as to make oral submissions or present your case. The request **can only be** made by clicking the Seek Video Conferencing button available against the SCN, in the view notices of this proceeding in the e-proceedings tab on efiling portal. The request can be made only before expiry of compliance date & time through video conference."*

5.Relying on the same, he would submit that though an opportunity of personal hearing was provided to the petitioner, the petitioner failed to avail the same and therefore the respondents should not be unnecessarily blamed as the principles of natural justice has been duly complied with by the 1st respondent before passing the assesement order. Further he would submit that since the petitioner failed to furnish the relevant documents, assessment order came to be passed. Hence, he prays for dismissal of this writ petition.

6. Heard both sides. Perused the records.

7. As rightly contended by Dr.B.Ramaswamy, learned Senior Standing Counsel for the respondents that the opportunity of personal hearing has been granted to the petitioner before passing the impugned assessment order, which is evident from paragraph 3(c) of the show cause notice which is extracted above. But, if the respondents-Department intends to pass a positive order against the petitioner by dropping the proposals made in the show cause notice, assessment order can be passed without hearing the petitioner. But, in the case on hand, assessment order came to be passed confirming the demand made in the show cause notice. Therefore, the petitioner has to be necessarily heard.

8. 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.

9. In the present case, opportunity of personal hearing was not provided to the petitioner before passing the impugned assessment order. That apart, a reading of the assessment order clearly shows that the following 10 documents were not demanded by the 1st respondent at the time of issuing the show cause, but reflected in the page 6 of the impugned order:

Sl.No.6- TDS Issue.
Sl.No.3- Rental agreement.
Sl.No.6- Travelling expenses
Sl.No.8 Interest payment.
Sl.No.9 Security charges, printing and stationery
Sl.No.10 Penalty paid to GST and PF Departments.

10. In view of the aforesaid position, this Court comes to the conclusion that the 1st respondent has travelled beyond the Show Cause Notice.

11. Considering the aforesaid facts and circumstances of the case and the submissions made, this Court is inclined to set aside the impugned order passed by the 1st respondent and the consequential demand notice of the respondent dated 13.03.2025. Accordingly, this Court passes the following order:-

(i) The impugned order as well as the consequential demand notice dated 13.03.2023 are set aside and the matter is remanded back to the 1st respondent for fresh consideration.

(ii) The 2nd respondent shall activate the Departmental portal, within a period of two weeks from the date of receipt of a copy of this order, in order to enable the petitioner to file their reply.

(iii) Thereafter, the petitioner shall file their additional reply/objection along with the required documents within a period of three weeks.

(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, as expeditiously as possible.

Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

16.06.2025

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

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   Income Tax Department,
   New Delhi.

2. National Faceless Assessment Centre,
   Income Tax Department, New Delhi.

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KRISHNAN RAMASAMY, J.

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