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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.15575 of 2024
and
W.M.P.Nos.16964, 16965 and 16966 of 2024

R.R. International
Represented by Partner
No.89/2, Avinashi Road,
Padmavathipuram,
Tirupur 641 603
PAN:AAFFR3061F ...Petitioner

Vs.

1. The Assessment Unit
   Income Tax Department
   National e-Assessment Centre, Delhi
   E-Ramp, Jawaharlal Nehru Stadium,
   Delhi-110 003.

2. The Income Tax Officer
   Ward 1(2), Tiruppur
   Income Tax Department
   60 Feet Road, Kumarnathapuram,
   Tiruppur, Tamil Nadu 641 602.

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3. The Principal Commissioner of Income Tax
Coimbatore
Income Tax Department
No.63, Race Course Road,
Coimbatore 641 018. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the file of the 1st Respondent to quash the impugned under u/s 143(3) read with Section 144B of the Income Tax Act, 1961 dated 28.03.2024 in DIN:ITBA/AST/S/143(3)/2023-24/1063583397(1) for the Assessment Year 2022-23.

For Petitioner : Mr.A.S.Sriraman

For Respondents : Dr.B.Ramaswamy
Senior Panel Counsel

ORDER

The challenge in this Writ Petition is to the order dated 28.03.2024 pertaining to the Assessment Year 2022-2023 passed by the 1st respondent and to quash the same.

2. The learned counsel for the petitioner would submit that the first respondent has issued a show cause notice on 20.03.2024, for which

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the petitioner submitted its reply on 22.03.2024 through the Income Tax Portal. Thereafter, another show cause notice was issued by the 1st respondent on 24.03.2024, for which the petitioner filed its reply on 25.03.2024 through the income tax portal. Subsequently the 1st respondent, without providing sufficient time to file the necessary replies/documents passed the impugned order on 28.03.2024 confirming the proposals contained in the show cause notice. Being aggrieved over the same,the petitioner has filed this Writ Petition.

3. Further, he would submit that though the petitioner made an attempt to avail personal hearing opportunity, they failed due to the reason that immediately after filling of the reply column, the portal automatically got closed, which had resulted in not availing the opportunity of hearing, as the same is beyond the control of the petitioner and cannot be construed as a fault on the part of the petitioner. Therefore, impugned order came to be passed without hearing the petitioner and therefore it suffers from violation of principles of natural justice and he prays to set aside the same.

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4. Per contra, Dr.B.Ramaswamy learned Senior Panel Counsel appearing for the Respondents strongly opposed the said contention by stating that in show cause notices itself, it is clearly mentioned that the personal hearing can be availed by clicking the seek video conferencing button available against the show cause notice in the view notices of the proceeding in the e-proceedings tab on e-filing portal. But, the petitioner has not availed the said opportunity and therefore impugned order came to be passed. However, he fairly explained about the working of the portal and submitted that the personal hearing option has to be filled up before filing the reply column. If not the portal will automatically close after the filling of the reply column. Therefore, it is for the petitioner to fill the said column before filling the reply column and they cannot blame the respondent-Department. He therefore prays for dismissal of the writ petition.

5. I have given due consideration to the submission made by the learned counsel appearing on either side and perused the materials available on record.

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6. It is the case of the respondents that though a specific option was given for availing the personal hearing opportunity in the Portal and which was also clearly indicated in the show cause notice itself, the petitioner failed to avail the said opportunity. Therefore, it cannot be said that impugned order passed is in violation of principles of natural justice. But it is the contention of the learned counsel for the petitioner that immediately after filling up of the reply column, the portal automatically disappeared.

7. It is a 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, as otherwise, it will amount to depriving the interest of the petitioner and the same amounts to violation of principles of natural justice.

8. In the case on hand, due to technical glitch, the petitioner could not opt for personal hearing in the portal and ultimately the impugned order was passed without giving opportunity of personal hearing to the Petitioner

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and therefore the same is liable to be set aside. Accordingly, this Court passes the following order:

(i) The impugned order dated 28.03.2024 is set aside and the matter is remanded back to the 1st respondent, subject to the payment of a sum of Rs.10,000/- to the Principal Government Naturopathy Medical College and Hospital, Account No.7883022723, IFSC Code: IDIB000M157, 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.10,000/- as stated above, the Respondents shall activate the Departmental portal, within a period of ***two weeks***, in order to enable the petitioner to file their reply,

(iii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of 15 days thereafter.

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(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.

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

15.04.2025

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Index : yes/no
Neutral Citation : yes/no

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

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For Petitioner : Mr.A.S.Sriraman

For Respondents : Dr.B.Ramaswamy
Senior Panel Counsel

ORDER

This matter has been listed under the caption 'For Being Mentioned'.

2. In page 1, 3rd line of the prayer portion of the order dated 15.04.2025 made in the aforesaid writ petition, inadvertently the word '***order'*** was wrongly typed as '***under.***'

Registry is directed to carry out the aforesaid corrections and issue fresh order copy to the parties concerned.

20.06.2025

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