



W.P.No.18560 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 15.09.2025

Coram

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.18560 of 2023

and

W.M.P.Nos.17792 & 17795 of 2023

Vajra Global Consulting Service LLP,
Rep. by its Partner G.Sankara Baaham,
No.2D, Kaashyap Enclave,
Second Floor, No.207,
Velachery Main Road,
Dhandeeswaram Nagar,
Velachery, Chennai - 600 042.

...Petitioner

Vs.

Assistant Director of Income Tax,
Centralized Processing Center,
Bengaluru.

...Respondent

For Petitioner : Mrs.Hema Muralikrishnan

For Respondent : Mrs.S.Premalatha
Senior Standing Counsel

ORDER



W.P.No.18560 of 2023

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This matter has been listed today under the caption 'For Being Mentioned' at the instance of the learned counsel for the petitioner.

2. The learned counsel for the petitioner would submit that in paragraph 10 (ii) of the order dated 30.07.2025, inadvertently, there is omission of a line with respect to activation of departmental portal for submission of reply by the petitioner and therefore the same may be incorporated.

3. Considering the submissions made by the learned counsel for the petitioner paragraph 10(ii) of the order dated 30.07.2025 is substituted as follows:

'The Respondent shall activate the Departmental portal, in order to enable the petitioner to file their reply and thereafter, the petitioner shall file reply within two weeks'



W.P.No.18560 of 2023

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

15.09.2025

Speaking order / Non-Speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To

The Assistant Director of Income Tax,
Centralized Processing Center,
Bengaluru.



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KRISHNAN RAMASAMY, J.,

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Vs.

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...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent in DIN: CPC/2122/G5d/619819520301221 and quash the impugned order dated 25.12.2022 passed therein for the Assessment year 2021-22 and further direct the respondent to process the Return of Income filed by the petitioner for the AY. 2021-22 vide acknowledgement number 619819520301221 and refund the tax due to the petitioner herein.



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W.P.No.18560 of 2023

For Petitioner : Mrs.Hema Muralikrishnan

For Respondent : Mrs.S.Premalatha
Senior Standing Counsel

ORDER

This Writ Petition has been filed by the petitioner to quash the impugned order dated 25.12.2022 passed by the respondent.

2. The learned counsel for the petitioner would submit that in the present case the issue pertaining to the financial year 2020-2021 and the assessment year pertains to 2021-2022. She would further submit that the petitioner has been carrying on the business of Digital Marketing and the turnover of the petitioner is below Rs.5 Crores and therefore, they are not liable to file an audit report in terms of the 1st proviso to Section 44 AB (a) of the Income Tax Act, 1961.

3. By referring to the above proviso, it is submitted by the learned counsel for the petitioner that in the present case the petitioner is carrying on the business of Digital Marketing with a turnover of below Rs.5 Crores and they have not received or spent any amount in cash beyond the limit of 5%,

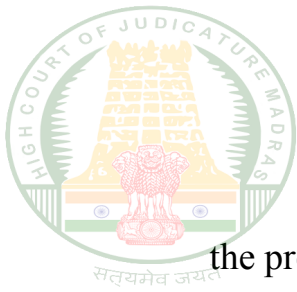


W.P.No.18560 of 2023

in which case the audit report is not required to be filed for the turnover upto Rs.5 Crores and therefore, they have not filed audit report.

4. In these circumstances, the petitioner filed return of income on 30.12.2021 and they have received an intimation notice from the respondent dated 24.08.2022 and on the same day, the petitioner filed reply stating that the cash receipts and payments were less than 5% of the turnover and also the turnover is below Rs.5 Crores and therefore, they have not furnished the audit report. However, without considering the said claim, the respondent passed the present impugned assessment order. Hence, the present Writ Petition.

5. Per contra, the learned Senior Standing Counsel for the respondent filed counter affidavit stating that in the present case the petitioner is not carrying on the business of Digital Marketing but carrying on the profession. Since they carry out all the work through the computers, it falls under the category of profession. Therefore, in the event of profession, the limit of Rs.5 Crores will not be applicable and hence, they have passed



W.P.No.18560 of 2023

the present impugned order.

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6. However, in reply, the learned counsel for the petitioner would submit that in the present case the question of carrying on the business of Digital Marketing would not fall under the category of profession and therefore, under the wrong impression, the respondent proceeded to pass the present impugned order as if the petitioner did not carry on the business but carried on the profession.

7. In reply, the Senior Standing Counsel for the respondent would submit that in such case, this Court is inclined to set aside the impugned order and remand the matter back to the Authority for fresh consideration. Hence, she prayed for appropriate directions.

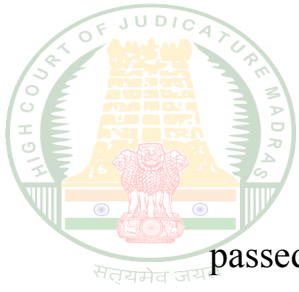
8. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, in the present case the issue pertains to the assessment year 2021-2022 and there is no dispute on the aspect that the petitioner is carrying on the business of Digital Marketing.



W.P.No.18560 of 2023

According to the respondent, the petitioner carries on the business of Digital Marketing through computers and therefore, it comes under the category of profession. However, Digital Marketing cannot be treated as profession, but it should be treated as business. Merely because it carried on the business through computers, it cannot be treated as profession.

9. Digital Marketing is the business for persons who carry out the said activities. In the event anybody carrying on the business of Digital Marketing with cash transactions both on the aspect of receipts and payments in cash below 5% of the turnover, which is below Rs.5 Crores as per the proviso to Section 44 AB (a), the said assessee is not required to file an audit report and they are exempted. In the present case, the petitioner turnover is below Rs.5 Crores and the cash transaction is below 5% on both aspects of expenses and receipts and everything was carried on through bank transactions. In this regard, evidence has also been produced and the said aspects had not been considered by the respondent. Therefore, in non-application of mind, the respondent arrived at a conclusion that the present transaction is in the nature of profession, not in the nature of business and



W.P.No.18560 of 2023

passed the impugned order.

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10. In such view of the matter, this Court is inclined to set aside the impugned order dated 25.12.2022 passed by the respondent. Accordingly, this Court passes the following order:-

- i) The impugned order passed by the respondent dated 25.12.2022 is set aside.
- ii) Consequently, the matter is remanded to the respondent for fresh consideration.
- iii) The petitioner is directed to file a reply along with supportive documents within a period of two weeks from the date of receipt of copy of this order.
- iv) Thereupon, the respondent is directed to consider the



W.P.No.18560 of 2023

WEB COPY

reply and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

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

30.07.2025

Speaking order / Non-Speaking order

Index : Yes / No

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