IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.22668 of 2025
and
W.M.P.Nos.25515 & 25517 of 2025

Reshma Haresh Jethwani ... Petitioner

Vs.

1. Assessment Unit,
Income-Tax Department,
National Faceless Assessment
Centre, Delhi.

2. The Income Tax Officer,
Non-Corporate Ward – 3 (1),
6th Floor, Wanaparthy Block,
121, Nungambakkam High Road,
Chennai – 600 034. ... Respondents

PRAYER: Writ Petitions filed under Article 226 of Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records of the petitioner on the file of the respondents and quash the impugned notice under Section 148 of the Act issued by the second Respondent in PAN : ABDPJ3375K, DIN: ITBA/AST/S/148_1/2023-24/1063791845 (1) dated 31.03.2024 for the AY 2020-21 and the consequential impugned order under Section 147 r.w.s. 144B of the Act passed by the first respondent in PAN:ABDPJ3375K, DIN: ITBA/AST/S/147/2024-25/1074943241 (1) dated 24.03.2025 for the Assessment AY 2020-21 and pursuantly, direct the first/second respondents to complete fresh assessment for the AY 2020-21, after considering the replies of the petitioner with proper application of mind and after affording proper opportunity of hearing.

For Petitioner : Mr.J.Saravanan

For Respondents : Mr.Avinash Krishnan Ravi
Junior Standing Counsel

ORDER

This writ petition has been filed challenging the impugned assessment order dated 24.03.2025.

2. The impugned notice under Section 148 of the Income Tax Act was issued on 31.03.2024, for which, there was no response filed by the petitioner and thereafter, notices under Section 142 (1) of the Income Tax Act were issued on 25.07.2024, 08.11.2024 and 17.12.2024 respectively. According to the respondent, a partial (in respect of three notices) and a full reply (for one notice) were received from the petitioner. Thereafter, a final show cause notice was sent on 04.03.2025 and the reply was filed on 09.03.2025. However, it was argued that the

impugned assessment order was passed without providing sufficient opportunities to the petitioner, despite the fact that the petitioner requested to provide personal hearing. The reply filed by the petitioner was not accepted and the impugned assessment order was passed by the 1st respondent. Aggrieved by the same, this Writ Petition is filed.

3. Even after issuance of the final show cause notice and filing of reply on 10.03.2025, once again, yet another notice under Section 142 (1) of the Act was issued, for which, no reply was filed on the side of the petitioner in time and thereafter, the petitioner seeks time for filing reply to the notice under Section 142 (1) of the Act.

4. Per contra, the learned Junior Standing Counsel (Taxes) for the respondents submitted that insofar as the issuance of show cause notice dated 04.03.2025 after filing of reply by the petitioner is concerned, he seeks time to get instructions to that extent.

5. This Court feels that the matter can be remanded back only for the purpose of providing an opportunity of personal hearing to the petitioner. Admittedly, notice under section 142 (1) of the Income Tax

Act was issued on 10.03.2025, but no reply was filed. According to the petitioner, the respondent had not given sufficient opportunities for filing the reply. In reply to the above, the 1st respondent states that even though, on five previous occasions, the 1st respondent provided sufficient opportunities to the petitioner for filing a reply, she had not chosen to file a reply.

6. Considering the submission of the learned counsel for the petitioner and as rightly pointed out by the learned Junior Standing Counsel (Taxes) for the respondents, in the present case, notices under Section 142 (1) of the Income Tax Act were issued on five occasions. Out of five occasions, on three occasions, the petitioner replied to the notice partly and in one occasion, she had not replied and on one occasion, she replied to the notice fully. Finally, on fifth occasion, in respect of the notice issued under Section 142 (1) of the Act on 10.03.2025, no reply was filed by the petitioner. Hence, the impugned assessment order was passed on 24.03.2025. According to the respondent, even after issuance of the notice and receipt of the reply, the respondent provided opportunity and issued the notice under section 142 (1) of the Act and therefore, there is no error on the part of the

respondent. It was the petitioner, who failed to file a proper reply.

7. It is seen that in all five occasions, notices were issued and sufficient opportunities were given. The petitioner filed the full reply in only one occasion. In all other four occasions, the petitioner had not filed the reply with supportive documents. Therefore, I do not find any force in the submission made by the learned counsel for the petitioner, to provide opportunity to file reply to the notice under Section 142 (1) of the Act.

8. However, on the aspect of personal hearing, the petitioner filed the reply on 09.03.2025 and in the reply, the petitioner specifically requested for personal hearing. But the respondent had not conducted personal hearing and straight away issued impugned assessment order on 24.03.2025. When a personal hearing is specifically sought by the petitioner in the reply, the respondent ought not to have passed any order rejecting the reply. It is a fault committed on the part of the respondent and there was no opportunity afforded to the petitioner to explain her case in-person, which is contrary to the settled position of law. Therefore, this Court feels that the impugned assessment order was

passed with regard to the violation of Act. Hence, the same is liable to be set aside.

9. Therefore, this Court finds that there is a lack of opportunities being provided to serve the notices/orders etc., effectively to the petitioner. In such circumstances, this Court is of the view that the impugned assessment order came to be passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notice. Hence, this Court is inclined to set-aside the impugned assessment order with terms, by issuing the following directions:-

i) The impugned order passed by the first respondent dated 24.03.2025 is set aside. The matter is remanded to the respondents for fresh consideration only to the extent of providing personal hearing to the petitioner, as conceded by the learned counsel for the petitioner;

ii) The first respondent is directed to afford an opportunity of personal hearing to the petitioner, as sought in the reply and thereafter, shall decide the matter in accordance with law on the basis of the documentary evidence let in by the petitioner.

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

29.07.2025

dh

To

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KRISHNAN RAMASAMY, J.
dh

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