

N.22S1

151/CL
10.02.26
SI-08
Ct.551
(S.R.)

WPA 8698 of 2025

Creative Poly Packs Pvt. Ltd.

v.

Assessment Unit, Income Tax Department & Ors.

Mr. Ramesh Kumar Patodia

Mr. Megha Agarwal ... for the petitioner.

Mr. Prithu Dudharia ... for the respondents.

1. This writ petition has been filed assailing an assessment order dated March 20, 2025 passed under Section 143(3) read with Section 144B of the Income Tax Act, 1961 in respect of assessment year 2023-24.
2. It is the petitioner's case that on March 04, 2025, a notice calling upon the petitioner to show cause as to why should the proposed variation not be made, was issued to the petitioner. The petitioner could not file its reply to the said notice to show cause within the time specified in the notice and accordingly sought for an adjournment.
3. Such adjournment was granted by a notice dated March 8, 2025 thereby fixing March 12, 2025 as the date for filing reply to the said notice to show cause.
4. On March 12, 2025, the petitioner filed its reply to the notice to show cause thereby, *inter alia*, requesting for an opportunity for personal hearing. Despite such request being made, the Assessing Officer proceeded to pass the final order of

assessment without hearing the petitioner. The petitioner is before this Court by way of present writ petition assailing the assessment order dated March 20, 2025.

5. Mr. Patodia, learned advocate appearing for the petitioner submits that the petitioner should not be relegated to the statutory appellate forum inasmuch as the petitioner has not been heard despite a request being made by the petitioner for personal hearing specifically in writing. It is submitted that the order impugned should be interfered with by this Court for the same having been passed in violation of principles of natural justice, and that the petitioner should be afforded an opportunity to present its case before the Assessing Officer so that appropriate order can be passed.
6. Mr. Dudharia, learned advocate appearing for the respondent Revenue Authorities submits that the notice to show cause issued initially was followed by another notice on March 12, 2025 which indicated that if the petitioner wished to avail the opportunity of personal hearing, it was required to click “the seek video conferencing button” available against the show-cause notice i.e. “SCN”. It is submitted that since the petitioner did not follow that mode specified therefore opportunity of personal hearing could not be given.

7. Mr. Patodia, learned advocate appearing for the petitioner has submitted in response that such contention of the Revenue has not been accepted by various Hon'ble High Courts across the country. In support of his submission he relies on the following judgments: -

(1)Global Vectra Helicorp Ltd. v. Assessment Unit, National Faceless Assessment Centre, Delhi (W.P. (C) 5912/2024) decided on **April 26, 2024** by the Hon'ble Delhi High Court.

(2)M/s. Williams Lea India Private Limited represented by the authorized signatory, blesson John Kaduvinal vs. Additional/ Joint/ Deputy/ Assistant Commissioner of Income Tax/ Income Tax Officer, National e-Assessment Centre, Delhi (W.P. 12760 of 2021) decided on **28.06.2022** by the Hon'ble Madras High Court.

(3)Satish Kumar Bansal Hug v. National Faceles Assessment Centre Nafac & Anr. (Writ Tax No. 627 of 2024) decided on **April 26, 2024** decided by the Hon'ble Allahabad High Court.

It is submitted that in view of the plethora of pronouncements by the various Hon'ble Courts, the stand of the Revenue Authorities that hearing could

not be given to the petitioner since the petitioner did not avail the opportunity in the mode indicated in the notice to show cause should not be countenanced.

8. Heard learned advocates appearing for the respective parties and considered the material on record.
9. It is now well settled that if an assessee specifically asks for an opportunity of personal hearing at the time of assessment, the Assessing Officer must afford such opportunity to the assessee before passing the assessment order. In the case at hand, the assessee has specifically asked for such opportunity in writing while replying to the notice to show cause. While it is true that a particular mode was specified in the notice to show cause for the assessee to indicate that the assessee wished to avail the opportunity of personal hearing but then if an assessee did not indicate it in the manner specified in the notice could the assessee altogether be deprived of the opportunity to present its case orally? Should such indication in the notice to show cause be treated with such severity? The answer in the considered view of this Court should be in the negative. Although oral hearing is not considered necessary in every case and may not be claimed as a matter of absolute right, yet when such right is

available the same should not be permitted to be curtailed and clipped on technical grounds. In the case at hand it has not been demonstrated before this Court with any degree of certainty that without the assessee opting for the opportunity of personal hearing by following the mode indicated in the notice to show cause, the Assessing Officer was powerless to grant opportunity of hearing and could not have granted hearing to the assessee at all. In fact, the Hon'ble High Court at Madras had in the case of ***M/s. Williams Lea India Private Limited (supra)*** rejected a similar contention on behalf of the Revenue Authorities that an opportunity of personal hearing can be availed of by the assessee only by clicking the seek video conferencing button available against the notice to show cause.

10. The Hon'ble Division Bench of Allahabad High Court has in the case of ***Satish Kumar Bansal Hug (supra)*** held that opportunity of oral hearing must be given to the assessee before framing the assessment.
11. About the same day, the Hon'ble Division Bench of Delhi High Court too repelled the contention raised by the Revenue Authorities in the case of ***Gobal Vectra Helicorp Limited*** (supra) by holding *inter alia* that the "contention was not substantiated by any provision of the Act and the Rules and

Regulations made therein”.

12. There is no reason for this Court to take a view divergent from the ones taken by the Hon’ble High Courts of Madras, Allahabad and Delhi as aforesaid. This Court is also of the same view that when the assessee made a specific request for being afforded an opportunity of personal hearing through its reply to the notice to show cause, which reply was considered by the Assessing Officer, there was no reason to stick to bare technicalities and refuse opportunity of personal hearing sought by the assessee.
13. For all the reasons aforesaid, since this Court finds that the order impugned has been passed in abject violation of the principles of natural justice (i.e. without affording an opportunity of physical hearing despite a request being made specifically therefor). The assessing order impugned dated March 20, 2025 for the assessment year 2023-24 is therefore set aside.
14. The Assessing Officer shall pass a fresh assessment order, in accordance with law after affording an opportunity of hearing to the petitioner through video conferencing in terms of the relevant provisions of the said Act of 1961 and the Rules and Scheme framed thereunder.
15. It is made clear that setting aside of this

assessment order shall not in any way preclude the Assessing Officer from reaching the same conclusion that it had reached earlier in case the Assessing Officer finds that such conclusion is justified in law and facts, even after hearing the petitioner but then the conclusion must be supported by cogent reasons. It is also clarified that this Court has not gone into the merits of the case and all points are left open to be decided by the Assessing Officer, in accordance with law.

16. Mr. Patodia requests for an opportunity for filing additional written submission. The assessee shall be free to make such request before the Assessing Officer, who shall consider the same and grant opportunity for the same, in accordance with law.
17. The Assessing Officer shall conclude the entire exercise within a period of six weeks from date.
18. WPA 8698 of 2025 stands disposed of with the above observations. No costs.
19. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)