IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.08.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.19057 of 2024
and
W.M.P.No.20905 of 2024

M/s.Shoreline Development Ltd.,
Represented by its Director,
Level 7, Capital Towers,
555, Anna Salai,
Teynampet, Chennai 600 013.
PAN: AABCS0435M ...Petitioner

Vs.

1. The National Faceless Appeal Centre,
Income Tax Department,
C-Block, 4th Floor,
S.P.M. Civic Centre,
New Delhi 110 001.

2. The Income Tax Officer,
Corporate Ward 3(1), Chennai,
Income Tax Department,
No.121, Nungambakkam High Road,
Chennai 600 034.

3. The Principal Commissioner of Income Tax-3 Chennai,
Income Tax Department,
No.121, Nungambakkam High Road,
Chennai 600 034.

... Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorari, to call for the records of the Writ Petitioner on the file of the 1st respondent to quash the impugned order u/s 250 of the Income Tax Act, 1961 dated 19.06.2024 in DIN & Order No.ITBA/NFAC/S/250/2024-25/1065804119(1) for the Assessment Year 2015-16.

For Petitioner : Mr.A.S.Sriraman
For Respondents : Mr.V.Mahalingam
Senior Standing Counsel

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorari to call for the records of the Writ Petitioner on the file of the 1st respondent and to quash the impugned order u/s 250 of the Income Tax Act, 1961 (in short 'the Act') dated 19.06.2024 in DIN & Order No.ITBA/NFAC/S/250/2024-25/1065804119(1) for the Assessment Year 2015-16.

2. The learned counsel for the petitioner submitted that, an order of assessment was passed on 27.12.2017 in terms of Section 143(3) of the Act for the assessment year 2015-2016 in pursuance to the original return of income filed in terms of Section 139 of the Act on 17.03.2016. Aggrieved by the same, an appeal was filed before the first respondent in terms of Section 246A of the Act through the electronic mode on 27.01.2018. Thereafter, the impugned order

was passed by the first respondent on 19.06.2024.

2.1. The main contention of the learned counsel for the petitioner is that though the several hearing notices were issued by the respondents, and all the times, where the petitioner requested for grant of personal hearing through Video Conferencing, however, the opportunity of personal hearing to appear through Video Conferencing has not been provided to the petitioner. Without providing opportunity of the personal hearing to the petitioner, the present impugned order has been passed. Therefore, he submitted that the impugned order passed by the first respondent is liable to be set-aside.

3. Mr.V.Mahalingam, learned Senior standing counsel for the respondents fairly submitted that, the opportunity of personal hearing through Video Conferencing has not been provided to the petitioner. Under these circumstances, he submitted that appropriate order may be passed by this Court and the same shall be complied with by the respondent.

4. Heard the learned counsel for the petitioner as well as the learned senior standing counsel for the respondents and perused the materials available on record.

5. In the present case, the first respondent provided an option to opt for personal hearing either in person or through Video Conferencing. The petitioner has opted for personal hearing through Video Conferencing. However, the respondents have failed to provide an opportunity to the petitioner to appear through Video Conferencing to present the case. Without providing an opportunity of personal hearing to the petitioner, the impugned order was passed on 19.06.2024.

6. If any order is passed without providing an opportunity of personal hearing, it is clearly amounts to violation of principles of natural justice. When the respondent intended to pass orders against the petitioner, it is the bounden duty of the respondent to provide an opportunity of the personal hearing through Video Conferencing, as the petitioner opted to appear through Video Conferencing to present his case. When the Video Conferencing option was opted by the petitioner, such option was not provided by the respondent. Thus, it violates the principles of natural justice, and on this score alone, the present impugned order is liable to be set-aside. While setting aside the impugned order, this Court is inclined to remand the matter back to the Appellate Authority for passing fresh order in accordance with law after affording an opportunity of

personal hearing through Video Conferencing. The aforesaid exercise is directed to be completed by the first respondent/Appellate Authority within a period of four months from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

05.08.2024

jd

Krishnan Ramasamy,J.,

jd

W.P.No.19057 of 2024

05.08.2024