HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY,THE SIXTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT JUSTICE RENUKA YARA

WRIT PETITION NO: 33251 OF 2024

Between:

Arunachala Logistics Pvt. Ltd., 8-2-1/1/3, Avtar Nivas, Srinagar Colony Main Road, Punjagutta, Hyderabad -500082, Rep by its Auth. Signatory Mr. Yerramsetty Venkata Naidu.

...PETITIONER

AND

1. Union of India, Ministry of Finance, Department of Revenue, Shastri Bhavan, New Delhi - 110001. Rep by its Principal Secretary.
2. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), North Block, New Delhi-110001.
3. Assessment Unit, National Faceless Assessment Centre, Income Tax Department, North Block, New Delhi-110001.
4. Local Committee for High Pitched Scrutiny Assessment, Rep. by Principal Chief Commissioner of Income Tax, Hyderabad, 10th Floor, I.T. Towers, A.C. Guards, Hyderabad-500004.
5. Deputy Commissioner of Income Tax, Circle 1(1), Hyderabad, IT Tower, AC Guards, Masab Tank, Hyderabad

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order of direction, more particularly in the nature of a Writ of Certiorari, calling for records and quashing the order of the 2nd Respondent dt.19.11.2024 bearing DIN and Order No.ITBA/NFAC/S/250/2024-25/1070444599(1) u/s 250 of the Income Tax Act, 1961 for the Assessment Year (AY) 2020-21, on the ground of the same being illegal, arbitrary, highhanded, high pitched and contrary to principles of natural justice and the provisions of the Income Tax Act, 1961, and consequently quash the Assessment Order

IA NO: 2 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the 4th and 5th Respondent to furnish the Report submitted to the Pr.CCIT on the assessment order dt.27.09.2022

IA NO: 3 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the Impugned Order of the 2nd Respondent dt.19.11.2024 bearing DIN and Order No.ITBA/NFAC/S/250/2024-25/1070444599(1)

Counsel for the Petitioner: SRI S. RAVI REP., FOR SRI. SAI SANJAY SURANENI

Counsel for the Respondent No.1: SRI GADI PRAVEEN KUMAR Dy. SOLICITOR GEN. OF INDIA

Counsel for the Respondent Nos.2 to 5: Ms. B.SAPNA REDDY JR. SC FOR INCOME TAX DEPARTMENT

The Court made the following: ORDER

THE HON'BLE THE ACTING CHIEF JUSTICE SUJOY PAUL

AND

THE HON'BLE SMT. JUSTICE RENUKA YARA

WRIT PETITION No.33251 of 2024

ORDER: *(Per the Hon'ble the Acting Chief Justice Sujoy Paul)*

Sri S.Ravi, learned Senior Counsel appearing for Sri Sanjay Suraneni, learned counsel for the petitioner; and Ms. B.Sapna Reddy, learned Junior Standing Counsel for Income Tax Department, appearing for respondent Nos.2 to 5.

2. With the consent, finally heard.

3. The singular argument advanced by the learned Senior Counsel for the petitioner is that the petitioner suffered an assessment order dated 27.09.2022. Aggrieved, the petitioner preferred a statutory appeal before the appellate authority/respondent No.2. By taking this Court to Annexure P-15, it is submitted that the petitioner made repeated and consistent request for providing it a personal hearing in the aforesaid appeal.

4. Learned Senior Counsel for the petitioner submits that providing of personal hearing is statutory mandate flowing from Section 246A of the Income Tax Act, 1961 (hereinafter, referred to as, 'the Act'). The appellate authority did not provide any personal hearing to the petitioner. By placing reliance on paragraph No.1.2 of the impugned order, dated 19.11.2024, learned Senior Counsel for the petitioner submits that the petitioner/assessee made a request for video conferencing, but, the appellate authority recorded that "*it is seen from the case history noting in ITBA Portal, that the link for VC is not visible in assessee's case. Hence the request for Video Conference in assessee's case could not be proceeded with*". Highlighting the finding that "*the request for video conference in assessee's case could not be proceeded with*", the learned Senior Counsel for the petitioner submits that there is no manner of doubt that such a request for providing personal hearing through video conferencing was indeed made by the petitioner. If the link could not be generated, the petitioner cannot be blamed or deprived from the statutory right of personal hearing. Learned Senior Counsel further submits that at this stage, the petitioner will be satisfied, if the appellate order is set

aside and the appellate authority is directed to provide effective personal hearing to the petitioner and pass a fresh order in accordance with law.

5. Learned Junior Standing Counsel for Income Tax Department provided the written instructions to this Court, which are prepared by respondent No.5, who is, admittedly, inferior in rank to the appellate authority. In the written instructions, the action was tried to be justified by stating as under:

> "In response, the NaFAC, New Delhi has communicated that ***"As checked by our Team, No Assessee Requested VC request is received from e-filing on any of the 4 VC Notices issued by CIT(A). Hence, No VC Link is generated"***. (A copy of mail correspondence is enclosed in PDF format for ready reference)."

6. If the finding reproduced hereinabove is examined in juxtaposition to paragraph No.1.2 of the finding given by the appellate authority, it runs contrary to the finding of the appellate authority. The appellate authority in no uncertain terms recorded that the assessee's request was received and could not be proceeded with. Thus, the written instructions, which run contrary to the factual backdrop recorded in the appellate order, cannot be accepted, more so, when such written instructions are

at the behest of an inferior authority. In other words, the appellate authority is bound by its findings in paragraph No.1.2, which at the cost of repetition, shows that the request for video conference hearing was, indeed, made and it could not be proceeded with. Such a request is evident from the orders at portal, dated 17.09.2024, 26.09.2024, 10.10.2024 and 30.10.2024. Thus, there cannot be any cavil of doubt that the petitioner made such a request for personal hearing. If, because of any technical glitch, the petitioner could not get that opportunity of personal hearing, it deserves such effective personal hearing in view of the principles of natural justice engrained under Section 246A of the Act.

7. Resultantly, we deem it proper to set aside the appellate order dated 19.11.2024 by directing the appellate authority to provide personal hearing to the petitioner and pass a fresh order in accordance with law. It is made clear that this Court has not expressed any opinion on the merits of the case.

8. Accordingly, the writ petition is **disposed of.** No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

SD/-A. SRINIVASA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary Union of India, Ministry of Finance, Department of Revenue, Shastri Bhavan, New Delhi - 110001.
2. The Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), North Block, New Delhi-110001.
3. Assessment Unit, National Faceless Assessment Centre, Income Tax Department, North Block, New Delhi-110001.
4. The Principal Chief Commissioner of Income Tax,Local Committee for High Pitched Scrutiny Assessment, Hyderabad, 10th Floor, I.T. Towers, A.C. Guards, Hyderabad-500004.
5. Deputy Commissioner of Income Tax, Circle 1(1), Hyderabad, IT Tower, AC Guards, Masab Tank, Hyderabad
6. One CC to SRI. SAI SANJAY SURANENI Advocate [OPUC]
7. One CC to Ms. B.SAPNA REDDY JR. SC FOR INCOME TAX DEPARTMENT [OPUC]
8. One CC to SRI. GADI PRAVEEN KUMAR Dy. SOLICITOR GEN. OF INDIA [OPUC]
9. Two CD Copies

KKS
BS

HIGH COURT

DATED:06/03/2025

ORDER

WP.No.33251 of 2024



DISPOSING OF THE WRIT PETITION WITHOUT COSTS

(11)

KVR
19/3/25