



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **11.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.13827 of 2024 and
W.M.P.Nos.14985 & 14986 of 2024

Hussain Mohideen
(PAN:AJEPM6315P)

... Petitioner

-VS-

1. National Faceless Assessment Center,
Income Tax Department,
Ministry of Finance,
Government of India,
New Delhi-2.

2. Assistant Commissioner of Income Tax,
Non-Corporate Circle 4,
BSNL Building,
Greens Road, Chennai-600 006.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the 1st respondent in PAN:AJEPM6315P dated 20.03.2024, and quash the same as illegal, arbitrary and against the principles of natural justice.



For Petitioner : Mr.A.Chandrasekaran

WEB COPY

For Respondents : Dr.B.Ramaswamy, Senior Standing Counsel

ORDER

An assessment order dated 20.03.2024 relating to assessment year 2022-2023 is assailed on the ground of breach of principles of natural justice. In respect of the above mentioned assessment year, the petitioner received an intimation under Section 144B of the Income Tax Act, 1961 dated 01.06.2023. This was followed by a notice under Section 142(1). Such notice was replied to on 03.08.2023. Being dis-satisfied with such reply, show cause notice dated 08.03.2024 was issued by the 1st respondent. The petitioner replied to such show cause notice on 16.03.2024. The impugned assessment order was issued thereafter on 20.03.2024.

2. Learned counsel for the petitioner submits that a show cause notice was issued with regard to proposed variation in respect of transaction between the petitioner and M/s.J.M. Jain Group. By referring to the show cause notice, he pointed out that the petitioner was called upon to show



cause as to why an addition of Rs.3,75,91,225/- should not be made on the basis that the total transaction value with M/s.J.M.Jain Group was Rs.3,81,56,488/-. By referring to the petitioner's reply, learned counsel pointed out that the petitioner stated that no cash transactions were entered into with M/s. J.M.Jain Group and that all payments were made through bank channels. He also pointed out that the petitioner informed the respondents that he is not in a position to provide an explanation with regard to documents seized from the premises of M/s.J.M.Jain Group. By referring to the impugned assessment order, learned counsel pointed out that information seized from the premises of M/s.J.M.Jain Group is referred to in considerable detail in the impugned order, whereas such details were not set out in the show cause notice. Since the petitioner was not provided copies of documents relied on by the Tax Department, he submits that an opportunity should be provided to the petitioner.

3. Dr.B.Ramaswamy, learned senior standing counsel, accepts notice for the respondents. By referring to the impugned order, he points out that multiple opportunities were provided to the petitioner, as is evident from



paragraph 2 of the impugned order. He also pointed out that the petitioner replied to some of these notices, including the show cause notice dated 08.03.2024. Since such reply was duly considered in the impugned assessment order by even extracting such reply, he submits that no case is made out for interference under Article 226 of the Constitution of India.

4. In the show cause notice, the petitioner was called upon to show cause as to why an addition of Rs.3,75,91,225/- should not be made on account of transactions of a total value of Rs.3,81,56,488/- with M/s.J.M.Jain Group in the financial year 2021-2022. In the petitioner's reply, the petitioner admits that he purchased goods from M/s.J.M.Jain Group and that such purchases were duly reflected in the books of account of the petitioner since they were made through bank channels. The petitioner further stated that he cannot offer an explanation with regard to documents seized from the premises of M/s.J.M.Jain Group, and that such explanation can only be provided by M/s.J.M.Jain Group. It is clear from the reply that the petitioner did not request for copies of material seized from the premises of M/s.J.M.Jain Group.



5. In the ultimate analysis, however, since a substantial addition was proposed to be made based on materials seized from the premises of M/s.J.M.Jain Group, such materials should have been provided to the petitioner so as to give the petitioner an opportunity to respond to such material before the assessment is concluded. In view of the material forming the basis of assessment not being provided to the petitioner, the matter requires reconsideration. At the same time, it should be noticed that the petitioner did not request for such material in spite of being in a position to do so and this has resulted in the assessment being concluded. For such reason, the petitioner is directed to pay costs of Rs.10,000/- (Rupees ten thousand only) to the Tamil Nadu State Legal Services Authority within two weeks from the date of receipt of a copy of this order.

6. Subject to fulfilment of the above condition, the impugned assessment order shall be treated as a show cause notice. The 1st respondent is directed to provide to the petitioner the material relied upon in the assessment order. Such material shall be provided to the petitioner within two weeks from the date of receipt of a copy of this order. Upon receipt



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thereof, the petitioner is permitted to submit a response within two weeks from the date of receipt of such material. In order to enable the same, the 1st respondent shall provide access to the portal. Upon receipt of the petitioner's response, the 1st respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing through video-conference, and thereafter issue a fresh assessment order within three months from the date of receipt of the petitioner's response.

7. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

11.06.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

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SENTHILKUMAR RAMAMOORTHY,J

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To

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