



2023:KER:68777

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

FRIDAY, THE 3<sup>RD</sup> DAY OF NOVEMBER 2023 / 12TH KARTHIKA, 1945

WP(C) NO. 34046 OF 2023

**PETITIONER:**

ANNA ALUMINIUM COMPANY (P) LTD.,  
KP 11/847, KIZHAKKAMBALAM, ALUVA,  
ERNAKULAM DISTRICT, REPRESENTED BY ITS  
MANAGING DIRECTOR MR. BOBBY M. JACOB, PIN - 683562.

BY ADVS.

SRI. ABRAHAM JOSEPH MARKOS  
SRI. AIBEL MATHEW SIBY  
SRI. ISAAC THOMAS  
SRI. JOHN VITHAYATHIL  
SRI. ALEXANDER JOSEPH MARKOS  
SRI. P. G. CHANDAPILLAI ABRAHAM  
SRI. SHARAD JOSEPH KODANTHARA

**RESPONDENTS:**

- 1 THE ASSISTANT COMMISSIONER OF INCOME TAX,  
CORPORATE CIRCLE 1(1), CENTRAL REVENUE BUILDING,  
I. S. PRESS ROAD, KOCHI, PIN - 682018.
- 2 COMMISSIONER OF INCOME TAX (APPEALS),  
NATIONAL FACELESS APPEAL CENTRE (NFAC),  
NEW DELHI, PIN - 110001.
- 3 THE COMMISSIONER OF INCOME TAX,  
NATIONAL FACELESS E-ASSESSMENT CENTRE,  
NEW DELHI, PIN - 110001.
- 4 CENTRAL BOARD OF DIRECT TAXES,  
DEPARTMENT OF REVENUE, MINISTRY OF FINANCE,  
GOVERNMENT OF INDIA, NORTH BLOCK, NEW DELHI,  
REPRESENTED BY ITS SECRETARY, PIN - 110001.

BY ADV.

SRI. JOSE JOSEPH - SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
03.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**DINESH KUMAR SINGH, J.****W.P.(C) No.34046 of 2023**Dated this the 3<sup>rd</sup> day of November, 2023**JUDGMENT**

1. The petitioner had filed appeal under Section 250 of the Income Tax Act, 1961 against the assessment order 31.03.2016 in respect of the assessment year 2013-14. Vide Exhibit P-6 communication dated 26.07.2023, the petitioner was given an opportunity to request for personal hearing to make oral submission in respect of his case through video conferencing facility. The petitioner was directed to submit his request for personal hearing through video conferencing facility through the registered e-mail [www.incometax.gov.in](http://www.incometax.gov.in) by 11.00 am of 28.07.2023. It was also made clear that if no request for personal hearing would be received by the given time and date, the appeal would get finalised as per materials available on record.

2. After receiving the said communication, the petitioner responded vide the communication dated 28.07.2023 seeking hearing through video conferencing. Despite this communication, the petitioner was not afforded with an opportunity of hearing and the impugned order in Exhibit P-8 came to be passed.



3. Considering the fact that the petitioner had specifically requested for personal hearing in response to the communication in Exhibit P-6 and the petitioner was not afforded with an opportunity of hearing and the the appeal got finalised vide Exhibit P-8 order, I find that there has been violation of the prescribed principles of natural justice in passing the Exhibit P-8 order.

4. In view thereof, the present writ petition is hereby allowed, the impugned order in Exhibit P-8 is set aside and the matter is remanded back to file of the 2<sup>nd</sup> respondent to decide the appeal afresh after affording an opportunity of hearing to the petitioner for which a communication should be sent to the petitioner intimating him the date and time for personal hearing. If the petitioner does not avail this opportunity, it is made clear that no further opportunities shall be afforded to the petitioner and the 2<sup>nd</sup> respondent would be free to pass the order in accordance with the law.

With the above directions, the present writ petition stands allowed.

**Sd/-**  
**DINESH KUMAR SINGH**  
**JUDGE**

Svn



**APPENDIX OF WP(C) 34046/2023**

**PETITIONER'S EXHIBITS**

- EXHIBIT P1 TRUE COPY OF THE ASSESSMENT ORDER DATED 31.03.2016 PASSED BY THE 1ST RESPONDENT
- EXHIBIT P2 TRUE COPY OF THE ACKNOWLEDGMENT OF RECEIPT OF THE APPEAL TOGETHER WITH THE APPEAL MEMORANDUM DATED 15.06.2016
- EXHIBIT P3 TRUE COPY OF THE CIRCULAR NO. 20/2016 DATED 26.05.2016 ISSUED BY 4TH RESPONDENT CBDT
- EXHIBIT P4 TRUE COPY OF THE RESPONSE TOGETHER WITH WRITTEN SUBMISSIONS DATED 21.06.2023 FILED BY THE PETITIONER
- EXHIBIT P5 TRUE COPY OF RESPONSE DATED 18.7.2023 FILED BY THE PETITIONER
- EXHIBIT P6 TRUE COPY OF THE NOTICE DATED 26.07.2023 ISSUED BY THE 2ND RESPONDENT
- EXHIBIT P7 TRUE COPY OF THE RESPONSE/ADJOURNMENT DATED 26.07.2023 DOWNLOADED FROM THE WEBSITE
- EXHIBIT P8 TRUE COPY OF THE ORDER DATED 19.08.2023 ISSUED BY THE 2ND RESPONDENT