IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2021

CORAM

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.Nos.23765 & 23783 of 2021
and W.M.P.Nos.25020,25022,25024,25027
25037,25040,25042 & 25044 of 2021
(Through Video Conferencing)

Fifth Field Realtors P Ltd.,
(Rep.by its Director
Smt.Sarada Sundaramurthy)
1/1, TAS Enclave, 10th Main Road Extn.
Shanthi Colony, Anna Nagar,
Chennai 600 040 ... Petitioner in both W.Ps.

vs.

1.The Assistant Commissioner of Income Tax,
National e-Assessment Centre, Delhi,
E-Ramp, Jawaharlal Nehru Stadium,
Delhi 110 003.

2.The Income Tax Officer,
Corporate Ward-2(2), Chennai
Income Tax Department,
121, Nungambakkam High Road,
Nungambakkam, Chennai 600 034.

3. The Principal Commissioner of Income Tax,
Chennai-1, Income Tax Department,
121, Nungambakkam High Road,
Nungambakkam, Chennai 600 034. ... Respondents in both W.Ps.

Prayer in W.P.No.23765 of 2021 Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records on the file of the first respondent to quash the impugned order dated 28.09.2021 passed under Section 147/144 r/w.S.144B of the Act for the Assessment Year 2013-14 in ITBA/AST/S/147/2021-22/1035984431(1) and consequently direct the first respondent to complete the fresh assessment for the assessment year 2013-14 after granting reasonable /sufficient opportunity of hearing.

Prayer in W.P.No.23783 of 2021 Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records on the file of the first respondent to quash the impugned order dated 28.09.2021 passed under Section 147/144 r/w.S. 144B of the Act for the Assessment Year 2014-15 in ITBA/AST/S/147/2021-22/1035984480(1) and consequently direct the first respondent to complete the fresh assessment for the assessment year 2014-15 after granting reasonable /sufficient opportunity of hearing.

For Petitioner	:	Mr.A.S.Sriraman(in both W.Ps.)
For Respondents	:	Mrs. Hema Muralikrishnan Senior Standing Counsel (in both W.Ps.)

COMMON ORDER

Heard the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents.

2. By this common order both the writ petitions are being disposed.

3. The petitioner has challenged the impugned Assessment Order dated 28.09.2021 passed under Section 147/155 r/w Section 144 B of the Income Tax Act, 1961 for the Assessment Years 2013-14 and 2014-15.

4. The petitioner was issued with a Show Cause Notice dated 22.09.2021 along with Draft Assessment order by the first respondent for the Assessment Years 2013-14 and 2014-2015. The petitioner was to reply to the Show Cause Notice by 24.09.2021. The petitioner had requested the respondent for an opportunity of personal hearing to enable oral submissions. The petitioner received an e-mail dated 30.09.2021 for fixation of the personal hearing on 27.09.2021 at 2.00 p.m. along with

the attachment dated 26.09.2021 wherein, the details of Video Conference was given for the following dates:-

S.No	*Date*	*Time*
1	27.09.2021	2.00 p.m.
2	30.09.2021	2.00 p.m.

5. It is the case of the petitioner that in the above dates the petitioner attempted by press Hyper-link but was unable to open the ITBA portal for the personal hearing. Thus, no personal hearing was not conducted.

6. Under such circumstances, the petitioner sent a reply on 30.09.2021 to which the petitioner received a communication through e-mail from the e-filing team of the Income Tax Department fixing the personal hearing on 27.09.2021 at 2.00 p.m. Meanwhile, the impugned assessment order dated 28.09.2021 has been passed by the first respondent.

7. Considering the fact that the petitioner was unable to participate in the personal hearing through video conference and considering the fact that the impugned order has been passed by the first respondent even before the 2nd date fixed for Video Conference, the impugned order cannot be sustained.

8. Accordingly, the impugned orders are hereby quashed. Considering the fact that the dispute pertains to the Assessment year 2013-14 2014-15, the first respondent shall pass a speaking order on merits and in accordance with law, preferably, within a period of ninety days from the date of receipt of a copy of this order. The respondents are directed to give appropriate instructions to the Web Portal Administrator to facilitate the petitioner to file reply, if any, within a period of 30 days and to give a link for the personal hearing through video conference on the date to be fixed by the first respondent. The first respondent is also directed to pass a fresh re-assessment order within a period of thirty days thereafter.

C.SARAVANAN,J.

kkd

9. These writ petitions are allowed with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

25.11.2021

Index: Yes/ No
Internet : Yes/No
Speaking/Non-speaking Order
kkd

To

1.The Assistant Commissioner of Income Tax,
National e-Assessment Centre, Delhi,
E-Ramp, Jawaharlal Nehru Stadium,
Delhi 110 003.

2.The Income Tax Officer,
Corporate Ward-2(2), Chennai
Income Tax Department,
121, Nungambakkam High Road,
Nungambakkam, Chennai 600 034.

3. The Principal Commissioner of Income Tax,
Chennai-1, Income Tax Department,
121, Nungambakkam High Road,
Nungambakkam, Chennai 600 034.

W.P.Nos.23765 & 23783 of 2021