

BHALCHANDRA
GOPAL DUSANE

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2848 OF 2021

Sureshkumar S. Lakhotia

.... Petitioner

Vs.

National e-Assessment Centre & Ors.

.... Respondents

Mr. Rahul Sarda a/w Mr. Sankalp Anantwar & Mr. Tushar Gaikwad i/by
SMA Law Partners for Petitioner.

Mr. Sham V. Walve with Prithvi Chatterjee for Respondents-Revenue.

**Coram : K.R. SHRIRAM &
ABHAY AHUJA, JJ**

Date : 8th SEPTEMBER, 2021

P.C.:

1. Petitioner received a notice dated 23rd April, 2021 for Assessment Year 2018-2019 calling upon to show cause why the assessment should not be completed as per Draft Assessment Order. This notice is digitally signed by the Officer at 1.40 pm. on 23rd April 2021 and Petitioner was called to file its response by 11.59 pm. on 26th

April, 2021. 23rd April, 2021 was Friday, 24th April, 2021 was 4th Saturday and 25th April, 2021 was a Sunday. Therefore Petitioner has been given effectively a little more 30 hours that too spread over a week end to respond. Petitioner immediately lodged a grievance on 23rd April, 2021 itself as could be seen from the printout of the acknowledgment / grievance from Respondents' website e-Nivahan, in which Petitioner has informed Respondent that the assessee is based in Pune, which is subject to complete lock-down and though the assessee shall try its best to respond, it may not be able to respond within the time provided and sought additional time till 29th April, 2021. Petitioner also sought personal hearing. At Exhibit "Y" to the Petition is also screen shot of the Income-Tax portal, which contains the details of e-proceedings adjournments sought, which also indicates that Respondent have received an adjournment request on 24th April, 2021 and adjournment has been sought upto 10th May, 2021. Detailed reason for adjournment is also mentioned and that also indicates what is recorded above.

2. In addition, in the reason, it is mentioned that the Department has extended the time for completion of assessment till 30th June, 2021 and therefore the time to make submissions be also extended. Notwithstanding this request, Respondents have passed the assessment order dated 29th April, 2021 as per draft provided to Petitioner by observing that no reply or explanation has been furnished by Petitioner and no documentary evidence has also been submitted. It is, this order which is impugned in this petition.

3. In the affidavit-in-reply, Respondent No. 4 has repeated what is stated in the impugned order that no request for an adjournment was received from the assessee upto 26th April, 2021, i.e., the date of hearing or even upto 29th April, 2021 when the order was passed. The statement and affidavit-in-reply and orders noted in the impugned order that no reply or explanation was furnished is contrary to what the records indicate.

4. We have also to note that the averments in the petition as contained in paragraphs 24 and 25 that Petitioner had raised grievance

and also filed an adjournment request has not been denied in the affidavit-in-reply.

5. In the circumstances, it is a fit case to interfere.

6. The order dated 29th April, 2021 is quashed and set aside. The matter is remanded back to the concerned authority to consider denovo and pass such order as it deems fit in accordance with law, after granting personal hearing to Petitioner. Mr. Sarda states that Petitioner will submit its objections to the Draft Assessment Order within one week from Respondent No.1 providing the link to Petitioner, in which the response has to be uploaded.

7. If any notice or demand has been issued consequent to the order impugned and set aside in this order, those notices and demand also stand set aside.

8. Parties to act on authenticated copy of this order.

9. Petition disposed.

(ABHAY AHUJA, J.)

(K.R. SHRIRAM, J.)