IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7326 OF 2021

Suchita Amit Kamthe ….Petitioner

V/s.

The Additional/Joint/Deputy/
Assistant Commissioner of Income
Tax/Income Tax Officer & Ors. ….Respondents

Ms. Farzeen Khambatta for petitioner.
Mr. Sham V. Walve for respondents.

CORAM : K.R. SHRIRAM &
AMIT B. BORKAR, JJ.
DATED : 4th DECEMBER 2021

P.C. :

1 At the outset, Ms. Khambatta tenders draft amendment, which is taken on record and marked "X" for identification.

2 Leave to amend granted. Amendment to be carried out and notwithstanding disposal of the petition, a copy of the amended petition, for completion of records, shall also be served on respondents within one week from today.

3 Ms. Khambatta raises two grievances (a) that the order dated 25th September 2021 disposing the objections raised by petitioner to the notice issued under Section 148 of the Income Tax Act, 1961 (the said Act) has to be quashed because the authority has not considered all the objections and points raised by petitioner as to why petitioner's assessment should not be reopened and (b) the assessment order, which has been passed on 30th September 2021 alongwith notice for penalty under Section

274 and notice of demand under Section 156 of the said Act, both dated 30th September 2021, have been passed without giving sufficient time to petitioner to explain and without hearing petitioner. Ms. Khambatta states that the notice as to why the proposed variation should not be made was issued on 28th September 2021 and petitioner was directed to respond by 23:59 hours on 29th September 2021.

4 We would agree with Ms. Khambatta that respondents have been most unfair in giving such a short time and on this ground alone, the assessment order dated 30th September 2021 and the consequential orders require to be quashed and set aside.

5 Ordered accordingly.

6 Since the order on objections passed on 25th September 2021 also has not considered all the submission made by petitioner, the same is also set aside. Respondents to consider petitioner's objections submitted vide letter dated 23rd September 2021 and after giving a personal hearing to petitioner to dispose of objections within four weeks from today.

7 We clarify that we have not made any observations on the merits of the case.

8 Petition disposed.

(AMIT B. BORKAR, J.) **(K.R. SHRIRAM, J.)**