IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7351 OF 2021

Sanjay Dattatraaya More ….Petitioner

V/s.

National E-Assessment Centre & Ors. …Respondents

Ms Deepa Khare i/b Mint & Confreres for Petitioner
Mr. Sham Walve with Mr. Pritesh Chatterjee for Respondents

CORAM : K.R. SHRIRAM &
AMIT B. BORKAR, JJ
DATED : 23rd NOVEMBER 2021

P.C. :

1 The primary contention in this petition is that respondents have violated the principles of natural justice in not complying with the mandatory provisions of Section 144B of the Income Tax Act 1961 (the Act). It is petitioner's case that Section 144B requires a notice and draft assessment order to be issued if any order prejudicial to the interest of petitioner is going to be passed by the revenue. Ms. Khare states that such a draft assessment order was not issued and in any case, was not received by petitioner before passing impugned assessment order dated 13th August 2021.

2 We also do not find in the assessment order any reference to such draft assessment order being issued. It only refers to a notice under Section 142(1) of the Act. Mr. Walve, in fairness, as an officer of the court, agrees with these observations of the court. Mr. Walve states that the court may, therefore, quash the impugned order dated 13th August 2021 and remand

the matter for *denovo* consideration with a direction to the revenue to strictly comply with the provisions of Section 144B of the Act.

3 In our view, it is a fair suggestion. Therefore, the order dated 13th August 2021 and consequential orders / demand / penalty notices are hereby quashed and set aside and the matter is remanded for *denovo* consideration. Respondents may pass such orders as it deems fit after strictly complying with the procedure prescribed in Section 144B of the Act, within 8 weeks from today.

4 Petition disposed.

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