IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8708 OF 2021

Nand Bhagwandas Motwani ....Petitioner

V/s.

National Faceless Assessment Centre & Ors. ....Respondents

Mr. Devendra H. Jain for petitioner.
Mr. Sham V. Walve a/w. Mr. Pritesh Chatterjee for respondents - Revenue.

CORAM : K.R. SHRIRAM &
AMIT B. BORKAR, JJ.
DATED : 20th DECEMBER 2021

P.C. :

1 Mr. Walve tenders an affidavit of one Aparna M. Aggarwal, presently working as Principal Commissioner of Income Tax - 1, Thane affirmed on 17th December 2021 in which paragraphs 12 and 13 read as under :

> *12. Further, I am submitting an affidavit giving facts of the case and the factual position w.r.t. the issues raised by the petitioner. I say that after going through the record of the present case it appears that the Faceless Assessment Unit has misread the directions issued by the Ld. Income Tax Appellate Tribunal and thereby proceeded with the Assessment on wrong assumption. I say that, there appears to be a mistake committed by the said Faceless Assessment Unit in the present matter.*
>
> *13. I solemnly state that, the lapse or error apparently on the part of NeFAC is inadvertent and I put up my unconditional apology on record on behalf of department. Further, I humbly submit that the Honourable Court may kindly direct the order to be treated as void-ab-initio and the Jurisdictional Assessing Officer may be directed to frame the assessment afresh de-novo in terms of the direction of the Ld. Income Tax Appellate Tribunal after giving adequate opportunity of being heard to the petitioner.*

2 Mr. Jain points out that the ITAT had directed respondents to provide documents to assessee but every time the assessee requested for the documents, the assessee received a letter asking assessee to provide the documents contrary to the directions of the ITAT. Respondent and in particular, Ms. Aparna M. Aggarwal, Principal Commissioner of Income Tax - 1, Thane, is directed to provide the assessee all documents as directed by ITAT within two weeks of this order being uploaded and also comply with all other directions of the ITAT. It is made clear that if these documents are not provided, this Court will take a grim view and may also consider initiation of contempt proceedings against respondents.

3 Petition allowed in terms of prayer clause - (a), which reads as under :-

> *(a) that this Hon'ble Court may be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate Writ, Order or direction, calling for the records of the petitioner's case and after going into the legality and propriety thereof, to quash and set aside the impugned assessment order passed under Section 143(3) read with Section 254 alongwith 144B dated 24.09.2021 (Exhibit K) and the consequential notice of demand dated 24.09.2021 (Exhibit L) and the notice initiating penalty proceedings u/s 271 (1)(c) dated 24.09.2021 (Exhibit M).*

4 Petition disposed.

5 The Jurisdictional Assessing Officer is directed to frame the assessment afresh *denovo* in strict compliance with the directions contained in the order dated 3rd April 2019 passed by ITAT, within twelve weeks of this order getting uploaded.

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