IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9327 OF 2021

Sakal Papers Pvt. Ltdd. ….Petitioner

V/s.

Asstt. Commissioner of Income
Tax Circle 5 Pune and Ors. …Respondents

Mr. P.S. Jetley, Senior Advocate a/w Mr. Sameer Dalal for Petitioner.
Mr. Suresh Kumar for Respondents.

CORAM : K.R. SHRIRAM &
AMIT B. BORKAR, JJ.
DATED : 22ND DECEMBER 2021

P.C. :

1. Mr. Suresh Kumar, counsel for respondents and as an Officer of the Court, in fairness states that the grievance of petitioner that draft assessment order was not served on the assessee appears to be a justified reason and therefore, the Court may grant prayer clause - (a) and remand the matter for *denovo* consideration. Prayer clause - (a) reads as under :

> *(a) that this Hon'ble Court be pleased to issue a Writ of Certiorari or any other writ order or direction under Article 226 of the Constitution of India calling for the records of the case leading to passing of the impugned order and after going through the same and examining the question of legality thereof quash, cancel and set aside the impugned assessment order dated 28th September 2021 (Exhibit - 'M') passed under section 144 r.w.s. 144B of the Income Tax Act, 1961 by Respondent No.2 as well as the notice of demand dated 28th September 2021 (Exhibit - 'O') issued under section 156 of the Income Tax Act, 1961 by Respondent No.2 and penalty notice dated 28th September, 2021 (Exhibit - 'P') issued under section 270 A of the Income Tax Act, 1961 by Respondent No.2.*

2. In view of the above, we hereby grant prayer clause - (a) quoted above and remand the matter for *denovo* consideration with a direction to the concerned authority to pass the assessment order and strictly comply with the mandatory provisions prescribed under Section 144 (B) of the Income Tax Act, 1961 including considering all the submissions made by petitioner and also granting a personal hearing. Notice about personal hearing shall be given atleast seven days in advance and the assessment order, after complying with the procedure required, shall be passed within twelve weeks of this order getting uploaded.

3. Petition disposed.

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