IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1639 OF 2021

Delta Global Allied Ltd. … Petitioner
Versus
Additional/Joint/Deputy/Assistant Commissioner of Income Tax/Income Tax Officer and Ors. … Respondents

…

Mr.P.J.Pardiwalla, Sr.Advocate with Mr.Jeet Kamdar i/by Mr.Atul Jasani for the Petitioner.

Mr.Sham Walve for the Respondent.

…

CORAM : K.R.SHRIRAM &
ABHAY AHUJA, JJ

DATED : 25th August, 2021.

P.C.:

Though various grounds have been raised in this Petition to challenge the impugned order dated 13th April 2021, one of the primary grounds is that the order impugned was passed without following the principles of natural justice, to wit, no personal hearing was granted. A Division Bench of this Court in **Piramal Enterprises Limited vs. Additional/ joint/ Deputy/ Assistant Commissioner of Income-tax/Income-tax Officer National e-Assessment Centre and Ors.,**[1] has held that when the assessee has made a

1 (2021) 129 Taxmann.com Page 18 (Bombay)

request for grant of personal hearing, the request has to be granted. The Court held that the principle of natural justice requires that a personal hearing has to be granted.

2 In this case Petitioner received a show cause notice dated 31st March, 2021 for an Assessment Year 2018-2019 calling upon to show cause as to why assessment should not be completed as per draft Assessment Order which was annexed to the notice. Para 3(c) of the notice reads as under:

> " *If required, you may request for personal hearing so as to make oral submissions or present your case after filing of written reply. On approval of the request, personal hearing shall be conducted exclusively through video conference."*

Petitioner in its reply dated 5th April, 2021 has made a request to grant a personal hearing if their submissions are not accepted and taken otherwise. Notwithstanding this request, Respondent, before passing the Assessment Order which is impugned in the Petition, has not granted any personal hearing nor mentioned as to why personal hearing cannot be granted.

3 In our view, if personal hearing is granted, Petitioner will be able to persuade Assessing Officer to appreciate unrealized aspects and effectively explain its case. In the circumstances, we hereby set aside the impugned

Assessment Order and consequential notice of demand dated 13^{th} April, 2021 and also penalty notices dated 13^{th} April, 2021, Copies whereof are at Exhs.M,N,O & P to the Petition and remand the matter back for *de-novo* hearing.

4 The concerned Authority shall pass such Order as deemed fit after granting personal hearing to Petitioner as per the rules.

5 We clarify, we have not made any observations on the merits of the case.

6 Petition stands disposed.

(ABHAY AHUJA, J.) **(K.R.SHRIRAM, J.)**

REKHA PRAKASH PATIL

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Date: 2021.08.27 16:35:40 +0530