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

WRIT PETITION NO. 1869 OF 2021

Degustibus Hospitality Private Limited ….Petitioner

V/s.

The National Faceless Assessment
Centre and Ors. …Respondents

Mr. Dharan V. Gandhi for Petitioner.
Mr. Sham V. Walve a/w Mr. Pritish Chatterjee for Respondents-Revenue.

CORAM : K.R. SHRIRAM &
AMIT B. BORKAR, JJ.
DATED : 8th DECEMBER 2021

P.C. :

1. Mr. Gandhi states that there is interim resolution professional appointed by NCLT, Mumbai under the Insolvency And Bankruptcy Code, 2016 some time in October after this petition was lodged. Mr. Gandhi states that he was informed about this only last night by the instructing chartered accountant. Mr. Gandhi states that he does not have any instructions from IRP to continue to appear in this petition.

2. At the same time, Mr. Walve states that the grievance raised by petitioner in this petition that the assessment order has been passed without issuing show cause notice without issuance of draft assessment order appears to be correct. Mr. Walve states that the court may therefore set aside the Assessment Order and remand for *denovo* consideration so that

respondent may strictly follow the procedure prescribed in Section 144B of the Income Tax Act, 1961 (the Act). Accordingly, petition is made absolute 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 Certiorati or Writ of Mandamus or a Writ in the nature of Mandamus 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 assessment order passed under section 143(3) read with section 144B of the Act dated 14.06.2021 (Exhibit U1) and the notice of demand in Form No.7 dated 14.06.2021 (Exhibit U2) as well as the show-cause notice under section 274 read with section 270A of the Act dated 14.06.2021 (Exhibit U3).*

3. The matter is remanded to the Assessing Officer for *denovo* consideration and with a direction that the procedure prescribed under Section 144B of the Act is strictly followed. The procedure to be completed and the Assessment Order to be passed within eight weeks from today subject to there being no restrictions under the provisions of the Insolvency And Bankruptcy Code, 2016.

4. Petition disposed.

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