IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5557 OF 2022

Uddhav B. Nimse … Petitioner
V/s.
Additional / Joint/Deputy
Assistant Commissioner of Income
Tax/Income -tax Officer and ors. … Respondents

Mr. Rahul Hakani a/w. Mr. Ajay Singh i/b Mr. Dalal Sameer Gulam for the Petitioner.
Mr. Suresh Kumar for the Respondent.

CORAM : K.R. SHRIRAM &
N.R. BORKAR, JJ.
DATE : MAY 06, 2022.

P.C.

1] Petitioner is impugning final assessment order dated 22.01.2022 and consequent demand notices under section 156 and penalty notice under section 271 and 271F of the Income Tax Act, 1961 (the Act).

2] The basis of challenge is that the assessment order has been passed notwithstanding petitioner's reasonable request for an adjournment because gathering of materials from multiple sources will require time and due to Covid, petitioner, who is an individual, was unable to gather the information and data and his family members were also tested positive for Covid. According to petitioner, request for adjournment has been unreasonably denied and the assessment order has been passed followed by penalty proceedings.

3] We have considered the assessment order and in that there is not even a reference to the request for adjournment and it simply states that opportunity has been provided to the assessee, but he has not availed of any opportunities.

4] Therefore, we quash and set aside the assessment order dated 22.01.2022 and remand the matter for *denovo* consideration. Consequent demand notice and penalty notice are also quashed.

5] The Assessing Officer shall pass fresh assessment order on or before 31.08.2022, after giving a personal hearing to petitioner. The notice for personal hearing shall be issued atleast seven working days in advance. If the Assessing Officer wishes to rely on any order or judgment of any High Court or Tribunal, then a list thereof shall be provided to petitioner alongwith the notice of personal hearing so that petitioner may be able to deal with/distinguish those orders/ judgments.

6] Petition disposed with no order as to costs.

(N.R. BORKAR, J.) **(K.R. SHRIRAM, J.)**