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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 12063 OF 2022

Lakha Ram

....Petitioner

V/s.

The Union of India and Anr.

...Respondents

Mr. Bharat Raichandani a/w Mr. Rishabh Jain i/b UBR Legal for Petitioner.
None for Respondents.

CORAM : K.R. SHRIRAM &

A.S. DOCTOR, JJ.

DATED : 10th OCTOBER 2022

P.C. :

1. Mr. Raichandani on instructions states that petition has been served sometime in December 2021 and undertakes to file affidavit of service within one week from today. None present for respondents.

2. Petitioner is impugning an order in original dated 30th June 2021 on the grounds that the observations of Respondent No.2 that petitioner has not submitted any reply to the charges levelled in the impugned show cause notice is erroneous in as much as petitioner had filed a reply dated 9th December 2019. Prior to the issuance of the show cause notice petitioner had received a letter from Respondent No.2 for verification of service tax payment vide letter dated 11th October 2019 to which petitioner had field reply by letter dated 9th December 2019. To the said letter were also annexed various documents. Subsequently, petitioner

received show cause notice dated 30th December 2020 but strangely signed on 24th December 2020 to which petitioner had replied vide letter dated 29th December 2020 reiterating the contents of letter dated 9th December 2019. When petitioner received a notice for personal hearing from Respondent No.2, petitioner replied by letter dated 18th June 2021 and brought to the notice of respondent that petitioner has already given a detailed reply and enclosed copy thereof to the said letter dated 18th June 2021. Notwithstanding this respondent has issued impugned order dated 30th June 2021 issued on 6th July 2021 by observing that there has been no reply from petitioner. A copy of reply is also annexed to the petition and there is no denial by way of affidavit in reply. According to Mr.Raichandani, it is petitioner's case that tax if any was payable on reverse charge basis and that has not been considered at all in the impugned order.

3. We have considered the petition with the documents annexed thereto with the assistance of Mr. Raichandani. We are satisfied that petitioner had responded to the show cause notice and the same should have been considered and dealt with in the impugned order dated 6th July 2021. Respondent No.2 not having done that, impugned order requires to be quashed and set aside, which we hereby do. The matter is remanded for *denovo* consideration. Before passing any order, which shall be within eight weeks from today, petitioner shall be given a personal hearing, notice whereof shall be given atleast seven working days in advance. If petitioner

wish to file any written submissions, petitioner may do so within three working days of the personal hearing.

4. Before we part, we have to note that this is one more case where respondents have passed such order without applying its mind and without considering the records.

5. We clarify that we have not made any observations on the merits of the matter.

6. Petition disposed.

(A.S. DOCTOR, J.)

(K.R. SHRIRAM, J.)