IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.66 OF 2022

Green Globe Impex P. Ltd. ....Petitioner

V/s.

Dr. Commissioner of Income
Tax 14(1)(2) Mumbai & Ors. ...Respondents

Mr. P. S. Jetly, Senior Advocate a/w Mr. Sameer Dalal i/b Monika Dokhale Walve for Petitioner
Mr. Suresh Kumar for Respondents-Revenue

CORAM : K.R. SHRIRAM &
R.N. LADDHA, JJ
DATED : 17th JANUARY 2022

P.C. :

1 We have heard counsel and also considered the petition.

2 The grievance of petitioner that the impugned order has been passed without granting a personal hearing or considering the response filed by petitioner to the draft assessment order dated 19th April 2021, is correct. Even in this case, department has given less than 48 hours to respond to petitioner. In the assessment order dated 21st April 2021 impugned in the petition, respondents record that in the reply petitioner has alleged that the import value of the purchases determined by the department was not correct and it has sought data how department arrived at the figure alleged. Respondent no.2 instead of providing data to petitioner has gone ahead and passed the assessment order. This is totally against the principal of natural justice and we would add smacks of high handed behaviour of respondent no.2.

3 In the circumstances, assessment order dated 21st April 2021 is

quashed and set aside. Respondent no.2, shall within 2 weeks from today, provide all the materials on which reliance has been placed while preparing the draft assessment order and give atleast two weeks time to petitioner to respond, in addition to the response dated 21st April 2021 filed by petitioner. Thereafter, respondent no.2 shall give a personal hearing to petitioner and intimate date and time of personal hearing at least 7 days in advance. Subsequent thereto the assessment order as respondent no.2 may deem fit can be passed but in that assessment order every point raised by petitioner shall be dealt with in detail. If respondent no.2 wishes to rely on any judgments or order passed by any Court or Tribunal, he shall provide a copy thereof to petitioner and give them an opportunity to deal with those judgments or distinguish those judgments and those submissions of petitioner shall also be dealt with in the assessment order.

4 After completing the above proceedings, the final assessment order shall be passed within 12 weeks from the date of this order being uploaded. The assessment order impugned does not indicate the name of the officer who has passed the order. Respondents shall ensure that this matter is assigned to some other officer, who was not the Assessing Officer who passed the impugned assessment order.

5 Petition disposed with no order as to costs.

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