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

WRIT PETITION NO. 694 OF 2022

Solidarity Financial Services
Private Limited ….Petitioner

V/s.
The Income Tax Officer 4(3)(1) and Anr. …Respondents

Mr. B.M. Chatterji, Senior Advocate i/b Mr. Shreyash J. shah for Petitioner.
Mr. Suresh Kumar for Respondents.

CORAM : K.R. SHRIRAM &
N. R. BORKAR, JJ.
DATED : 6th APRIL, 2022

P.C. :

1. Heard Mr. Chatterji and also considered the reasons recorded for re-opening as provided on 25th May, 2021.

2. Here is a case where return of income has been processed under Section 143(1) of the Income Tax Act, 1961 (the Act) and therefore the Assessing Officer has to only make out tangible material in the reasons recorded. We find, prima facie, there is tangible material in the reasons recorded. At the same time, we also find that in the objections filed by petitioner in its communication dated 8th July, 2021 to the re-opening, petitioner has stated that various information has been mentioned in the reasons recorded for re-opening alongwith documentary evidence and/or statement of brokers etc. but none of the statement or documentary evidence have been provided. In the order on objections dated 27th July,

2021, which is also impugned in the petition, the Assessing Officer is totally silent on this grievance of petitioner. In fact, the Assessing Officer, in our view, should have provided petitioner with copies of these documentary evidence and statement of brokers etc., and give an opportunity to petitioner to file further objections. The Assessing Officer not having done that, we are of the view, that the order dated 27th July, 2021 certainly violates the principles of natural justice. Therefore, we quash and set aside the order dated 27th July, 2021.

3. We hereby direct the Jurisdictional Assessing Officer (JAO) to provide petitioner with all documents and documentary evidence including information and statements relied upon in the reasons recorded for re-opening and permit petitioner to file further written submissions. To the extent, the documents/information would not relate to petitioner, those portions could be redacted. These information/ documents to be provided within three weeks of this order being uploaded.. Within three weeks thereafter, petitioner shall file further objections which shall be disposed within four weeks of receiving those objections.

4. Petitioner shall also be given a personal hearing before the order on objections is passed, notice whereof shall be issued atleast seven working days in advance. If the Assessing Officer is going to rely on any order or judgment of any Court or Tribunal, a list thereof shall also be

provided to petitioner with the notice for personal hearing, so that petitioner will be able to deal with it or distinguish the same during the personal hearing.

5. The time spent from the date of filing the Writ Petition till disposal and the time granted for disposal of objections is to be excluded while computing the period of limitation for completion of the assessment proceeding.

6. We have not expressed any opinion on the merits of the case. All rights and contentions of petitioner are kept open.

7. Petition disposed.

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