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

WRIT PETITION NO. 623 OF 2021

Aftab Ahmed Khan ….Petitioner

V/s.

Income Tax Officer Ward
22(1)(1), Mumbai and Ors. …Respondents

Mr. Sameer Dalal for Petitioner.
Mr. Sham V. Walve for Respondents-Revenue.

CORAM : K.R. SHRIRAM &
N. R. BORKAR, JJ.
DATED : 22nd MARCH, 2022

P.C. :

1. Petitioner has filed the present petition before this Hon'ble Court aggrieved by the action of Respondent No. 2 in rejecting the Application filed in Form No. 1 under the Direct Tax Vivad Se Vishwas Act, 2020 (the DTVSV Act) for settlement of his tax dispute pending for A.Y. 2005-06. The Application of petitioner was rejected for the reason that on the Permanent Account Number ('PAN') BDYPK 4162 P ('New PAN') there was no tax demand pending.

2. Petitioner had applied for a New PAN in the year 2008 and was allotted the same by the Revenue Authorities. However, due to sheer inadvertence on the part of petitioner and Revenue Authorities the appeal along with the tax demand therein was not migrated to the new PAN due to which no demand was depicted under the new PAN. Further, the old PAN

was also not deactivated thus due to this inadvertent technical error petitioner's application under the DTVSV Act was rejected. The tax demand for the A.Y. 2005-06 is still showing as outstanding till today against petitioner though in the old PAN which is now deactivated.

3. Furthermore, it is noteworthy that the Income Tax Department vide its notice dated 4th March, 2020 has pointed current demand pending against the assessee in the same new PAN: BDYPK4162P of Rs. 12,00,380/- for A.Y. 2005-06. The said communication further afforded opportunity to petitioner for availment of DTVSV Scheme. Therefore, petitioner rightly filed its application/declaration under the said PAN: BDYPK4162P.

4. The rejection order merely on technical ground that there is no appeal nor any tax demand in the new Permanent Account Number being BDYPK 4162 P would cause grave prejudice to petitioner as on one hand petitioner is barred from participating in the scheme and end the litigation and on the other hand the Revenue proposes to recover the same tax demand.

5. The objective of the DTVSV Act is to provide for resolution of disputed tax and for matters connected there with or incidental thereto. Here petitioner – assessee wants to put an end or wants closure to all the disputes between him and the tax authorities.

6. Thus, in peculiar circumstances of petitioner’s case Respondent No.2 be directed to allow petitioner to participate in the DTVSV scheme and settle his outstanding tax dispute for the A.Y. 2005-06 as per law.

7. Since the rejection of petitioner's declaration under the DTVSV Act was only for reasons as stated above, accordingly, the impugned order dated 29th December 2020 passed by Respondent No.2 is set aside and Respondent No.2 is directed to issue Form No.3 determining disputed amount of tax payable by petitioner in accordance with the Section 3 of the DTVSV Act read with Rule 4 of the DTVSV Rules, within a period of four weeks. Thereafter, petitioner would pay the amount so determined in Form No. 3 within a period of one week from the issue of Form No. 3 and further upload the Form No.4 within one week thereafter. The tax amount payable by petitioner would not include any further levies as prescribed under the DTVSV Act, if the same is paid within the time limit as prescribed above and the same would be deemed to have been paid within the time allowed under section 3 (a) of the DTVSV Act.

8. Petition disposed with no order as to costs in the above terms.

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