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

WRIT PETITION NO.561 OF 2021

Jainam Constructions ….Petitioner

V/s.

The Income Tax Appellate Tribunal and Ors. ….Respondents

Mr. Mandar M. Vaidya for petitioner.
Mr. Sham V. Walve for respondents – Revenue.

CORAM : K.R. SHRIRAM &
N.J. JAMADAR, JJ.
DATED : 31st JANUARY 2022

P.C. :

1 Mr. Vaidya submitted that the observation of the ITAT in the order dated 22nd May 2020 that it was assessee's own fault that caused the disposal of the matter ex-parte qua the assessee is not correct. At the same time, Mr. Vaidya states that since the matter has been sent back to the Assessing Officer, who will be hearing and disposing the matter on merits, petitioner will go before the Assessing Officer and raise all points and make all submissions on facts as well as in law and the Assessing Officer be directed to consider all the submissions of petitioner while passing the assessment order.

2 It is a fair suggestion. Therefore, the Assessing Officer shall consider the submissions of petitioner on merits and pass an assessment order in accordance with law after giving a personal hearing to petitioner. Notice of personal hearing shall be communicated to petitioner atleast one week in advance. If respondent 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.

3 Petition accordingly disposed. All rights and contentions of petitioner are expressly kept open.

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