

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1129 OF 2022**

M Construction CompanyPetitioner

V/s.

Union of India and Anr.Respondents

Mr. Mahaveer Jain i/b. Mr. Yash Jariwala for petitioner.

Mr. Sham V. Walve for respondents-Revenue.

**CORAM : K.R. SHRIRAM &
N.J. JAMADAR, JJ.
DATED : 7th MARCH 2022**

PC.:

1 Mr. Walve, counsel for respondents and as an Officer of the Court, in fairness states that the grievance of petitioner that show cause notice cum draft assessment order was not issued before passing the assessment order appears to be a justified reason and therefore, the Court may grant prayer clause - (a) and remand the matter for *denovo* consideration. Prayer clause - (a) reads as under :

(a) that this Hon'ble Court be pleased to issue a writ of Certiorari or a writ in the nature of Certiorari or any other appropriate writ under Article 226 of the Constitution of India, calling for records pertaining to the impugned Assessment Order passed u/s 143(3) read with 144B of the Act on 22.04.2021 for AY 2018-19 by Respondent No.2 (being Exhibit "F" hereto) and after going into the validity and legality thereof to quash and set aside the same.

2 In view of the above, we hereby grant prayer clause - (a) quoted above and remand the matter for *denovo* consideration with a direction to the concerned authority to pass the assessment order and strictly comply with the mandatory provisions prescribed under Section 144

(B) of the Income Tax Act, 1961 including considering all the submissions made by petitioner and also granting a personal hearing. Notice about personal hearing shall be given atleast seven days in advance and the assessment order, after complying with the procedure required, shall be passed within twelve weeks of this order getting uploaded. If the authority is going to rely on any order or judgment of any High Court or Tribunal, then a list thereof shall be provided to petitioner alongwith the notice of personal hearing so that petitioner may be able to deal with/distinguish those orders/judgments.

3 Petition disposed.

(N.J. JAMADAR, J.)

(K.R. SHRIRAM, J.)