IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1797 OF 2021

Lata Hemanth Jain	...	Petitioner
Vs.		
Income Tax Officer Ward – 32(2)(1) and others	...	Respondents

Ms. Dinkle Hariya i/b. Ms. Namrata Kasale for Petitioner.
Mr. Sham V. Walve for Respondents - Revenue.

CORAM : K. R. SHRIRAM &
N. J. JAMADAR, JJ.

DATE : FEBRUARY 08, 2022

P.C. :-

1. Mr. Walve states that petitioner's grievance that her adjournment request was not considered is justified and, therefore, the Court may quash and set aside the order dated 20th May, 2021 for A.Y. 2018-19 and remand the matter for *de novo* consideration.

2. At this stage, Ms Hariya brings to the attention of this Court, paragraphs 4.5 to 4.7 of the impugned order and submits that there is no provision in law which permits the Revenue to add income under Section 68 of the Income Tax Act, 1961 subject to the report of the Designated Verification Unit (DVU). Ms. Hariya submits that if such a report has not been received then respondents should not have passed the assessment order or should not have added total income of the petitioner under Section 68 of the Act. Moreover, she submits that the table in paragraph 4.5 states that *report received from DVU on 11th April 2021*. However, in paragraph 4.6, it is recorded that as per report received from DVU, verification could not be completed by DVU. If verification could

not have been completed by DVU, how could respondent make any addition under Section 68. There is some merit in the submission made by Ms. Hariya. Therefore, we pass the following order:-

a) Assessment order dated 20th May, 2021 is quashed and set aside;

b) A fresh assessment order shall be passed within twelve weeks from today, only after considering submissions of petitioner and after granting a personal hearing to the petitioner. Notice of personal hearing shall be given at least one week in advance.

c) If respondents are going to rely on any order or judgment, they shall provide a copy thereof to petitioner in advance before the personal hearing so that petitioner can distinguish or deal with the same. If respondents are going to rely on any document or report, petitioner shall be permitted to file further submissions dealing with those documents;

d) Since we have set aside the assessment order dated 20th May 2021, any notice issued consequent to this assessment order will also stand quashed and set aside.

4. Petition disposed of.

5. We will hasten to add, we have not made any observations on the merits of the case.

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