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

WRIT PETITION NO. 3534 OF 2021

ACME Housing India Private Limited ... Petitioner

Versus

1. National Faceless Assessment Centre
and 3 Others. ...Respondents

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Mr. Jitendra Jain with Mr.Jas Sanghavi and Mr.Yash Prakash i/b PDS Legal, Advocate for petitioner.

Mr.Suresh Kumar, Advocate for respondents.

CORAM : DHIRAJ SINGH THAKUR &
ABHAY AHUJA, JJ.

DATE : 13th DECEMBER , 2022.

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1. The petitioner challenges the order of assessment, dated 29th September 2021 passed under section 143(3) read with section 144B of the Income Tax Act, 1961 ('the Act') relevant to the assessment year 2018-19, primarily on the ground that the same was in gross violation of the procedure prescribed under section 144B(1)(xvi) of the Act. It is stated that earlier a draft assessment order was passed on 26th March 2021, which was responded to by the petitioner. This draft assessment order, it is stated, did not

make any mention of the issue with regard to depreciation of goodwill amounting to Rs.30,18,07,032/-. It is stated that subsequently, a notice under section 142(1) of the Act was issued on 3rd June 2021, when for the first time, a query was raised with regard to the claim of depreciation of goodwill. It is stated that this notice under section 142(1) too was responded to by the petitioner. However, instead of serving upon the petitioner a draft assessment order, yet again, the Assessing Officer this time. proceeded directly to pass the order of assessment on dated 29th September 2021, which is impugned in the present petition.

2. Learned counsel for the petitioner states that only because the draft assessment order had been issued once earlier, which was conspicuously silent on the issue of depreciation of goodwill, would not make the subsequent order of assessment good, without there being a satisfactory compliance with the provisions of section 144B(1)(xvi) of the Act.

3. We are in agreement with the view of the learned counsel for the petitioner, which has not been specifically controverted by Mr.Suresh Kumar, learned counsel for the revenue, who also

states that this was a requirement which ought to have been fulfilled.

4. In that view of the matter, considering the limited controversy which is before us, we set aside the impugned order of assessment and remand the matter back to the National Faceless Assessing Centre for passing orders afresh strictly in compliance of the provisions of section 144B(1)(xvi) of the Act, as they stood at the relevant time. Needful be done within a period of four months from today. All consequential orders including notice of demand, dated 29th September 2021 (Exh.'Z') shall stand quashed.

5. Writ petition is disposed of accordingly.

[ABHAY AHUJA, J.] **[DHIRAJ SINGH THAKUR, J.]**