IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.3305 OF 2021

Erik Mark Jacob Master ….Petitioner

V/s.

Income Tax Officer Ward 34(1)(1) & Ors. …Respondents

Mr. Nishant Thakkar i/b Lumiere Law Partners for Petitioner
Mr. Sham Walve for Respondents-Revenue

CORAM : K.R. SHRIRAM &
N.J. JAMADAR, JJ
DATED : 24th JANUARY 2022

P.C. :

1 Mr. Walve, counsel for respondents and as an Officer of the Court, in fairness states that the grievance of petitioner that they have not been granted a personal hearing 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 may be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari or Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, Order or direction under Article 226 and/or 227 of the Constitution of India, calling for the records of the petitioner's case so far as they relate to the issue of impugned first SCN draft order dated April 22, 2021 and Second SCN draft order dated April 30, 2021 (Exhibits X & Z), the passing of the impugned assessment order dated May 24, 2021 (Exhibit AB), the issue of the impugned demand notice dated May 24, 2021 (Exhibit AO) and the issue of the impugned penalty notices dated May 24, 2021 and June 17, 2021 (Exhibits AP & AQ) and after going through and examining the question of the validity, legality and propriety thereof, be pleased to quash and set aside the impugned first SCN draft order dated April 22, 2021 and Second SCN draft order dated April 30, 2021 (Exhibits X & Z), the passing of the impugned assessment order dated May 24, 2021 (Exhibit AB), the issue of the impugned demand*

notice dated May 24, 2021 (Exhibit AO) and the issue of the impugned penalty notices dated May 24, 2021 and June 17, 2021 (Exhibits AP & AQ)"

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.

3 Petition disposed.

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