IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.3889 OF 2021

Archana Pramod Akhramka	…	Petitioner
Vs.		
National Faceless Assessment Centre and others	…	Respondents

Mr. Dharan V. Gandhi a/w. Mr. Harsh Kapadia for Petitioner.
Mr. Akhileshwar Sharma for Respondents.

CORAM : K. R. SHRIRAM &
R. N. LADDHA, JJ.

DATE : JANUARY 18, 2022

P.C. :-

1. We have, with the assistance of counsel, perused the impugned assessment order and also the draft assessment order dated 24th September 2021. We find the conduct of the officer concerned to be absolutely unreasonable and unfair towards the assessee. At the request of Mr. Sharma we are not going into the details and make observations against the officer concerned.

2. Mr. Sharma, in fairness, states that if a request for personal hearing was made, it ought to have been granted and recently even Delhi High Court has stated that personal hearing has to be mandatorily given.

3. A request of petitioner for providing some statements etc. of the parties on whose statements reliance has been placed while proposing to re-open the assessment is wrongfully denied. Even the request for cross-examination of those persons has been wrongfully denied. The second request has been rejected saying that time was not enough whereas the same officer gives hardly 72 hours to an assessee to respond.

4. In the circumstances, the assessment order dated 29th September 2021 impugned in this petition is quashed and set aside. The matter is remanded for *denovo* consideration. The Assessing Officer shall provide

to petitioner all documents on which the Revenue is relying upon to allege that petitioner has given cash loan of Rs.12,30,00,000/-. A complete set should be given and not just extracts. If the documents contain material relating to other parties unconnected with petitioner then those portions could be blanked out, but the full document otherwise has to be given. Petitioner shall also be given an opportunity to cross-examine those persons on whose statements Revenue is relying upon.

5. Whereafter and in any event, on or before 31st May 2022, the assessment order shall be passed. Personal hearing notice shall be given minimum seven days in advance. The documents relied upon shall be made available at least two weeks before the persons on whose statements Revenue is relying upon are made available for cross-examination. The date and time shall also be intimated at least seven days in advance.

6. If Revenue is relying upon any judgment or order of any Court or Tribunal then advance copy shall be given to the assessee who shall be permitted to distinguish or deal with those judgments or orders.

7. Petition is accordingly disposed.

8. We clarify that we have not made any observations on the merits of the matter. The assessment proceedings will be conducted by an officer other than the person who had passed the assessment order or the draft assessment order in this case.

9. Mr. Gandhi's statement that the appeal filed against the assessment order will be withdrawn within three weeks from today is accepted as an undertaking to this Court.

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