IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 4522/2022

(PADMAKAR RAGHUNATH DIGHE **VERSUS** INCOME TAX OFFICER, WARD 4(4), NAGPUR & ANOTHER)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders.	*Court's or Judge's order*

Shri M.M. Bhusari, counsel for the petitioner.
Shri Anand Parchure, counsel for the respondents.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.
DATE : SEPTEMBER 06, 2022.

The challenge raised in this writ petition is to the order passed under Section 147 read with Section 144 of the Income Tax Act, 1961 (for short, 'the said Act').

A preliminary objection is raised by the learned counsel for the Revenue that the statutory remedy of filing an appeal under Section 254 of the said Act is available. It is urged that such remedy ought to be availed by the petitioner.

The learned counsel for the petitioner seeks to assail the impugned order on the ground that the assessee was not liable to make any payment as determined by the Assessing Officer. This according to the learned counsel has resulted in breach of principles of natural justice.

We find that the challenge as raised by the petitioner could be conveniently decided in proceedings if filed under Section 254 of the said Act.

In view of aforesaid, the following order is passed:-

I) The writ petition as filed is not entertained.

II) If within a period of two weeks from today the petitioner invokes the statutory remedy available under Section 254 of the said Act, the appeal shall be entertained on merits without going into the question of delay.

III) The proceedings if filed shall be decided on its own merits and in accordance with law.

IV) All points raised on merits in the writ petition are kept open.

The writ petition is disposed of in aforesaid terms. No costs.

(URMILA JOSHI-PHALKE, J.) **(A. S. CHANDURKAR, J.)**

APTE