Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 74 OF 2023

INFO TECH CORPORATION OF GOA LIMITED, A Government of Goa Company, registered u/s 617 of Companies Act, 1956. Through its Managing Director, Mr Praveen R. Volvotkar, Having office at IT Hub, 3rd Floor, Altinho, Panaji-Goa. 403001. …... Petitioner.

Versus

1. ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 1(1), PANAJI, Aayakar Bhavan, Plot No.5, EDC Complex, Patto Plaza, Panaji, Goa. 403001.

2. DEPUTY COMMISSIONER OF INCOME TAX, CIRCLE 1(1), PANAJI, 1st Floor, Aayakar Bhawan, Patto, Panaji, Goa. 403001.

3. CHIEF COMMISSIONER OF INCOME TAX, PANAJI,
Aayakar Bhavan, Plot No.5, EDC Complex, Patto Plaza, Panaji, Goa. 403001. …. Respondents

Mr D.J. Pangam, Advocate General with Mr Shubham Priolkar, Addl. Govt. Advocate *for the Petitioner.*

Mr K.V. Aravind, Senior Standing Counsel *for the Respondents.*

CORAM : M. S. SONAK &
BHARAT P. DESHPANDE, JJ.

DATE : 8th February 2023

ORAL JUDGMENT : (Per M.S. Sonak, J.)

1. Heard Mr Pangam, learned Advocate General who appears along with Mr Shubham Priolkar, learned Addl. Govt. Advocate for the Petitioner and Mr K.V. Aravind learned Senior Standing Counsel for the Respondents.

2. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned Counsel for the parties.

3. The challenge in this Petition is to the orders dated 29/7/2022, notices dated 29/7/2022, and 2/11/2022 issued by Respondent No.1 seeking to reopen the Petitioner's assessment for the AY 2013-14.

4. We have heard the learned Counsel for the parties and perused the record. Unfortunately, natural justice appears to have become a casualty for reasons not attributable to either of the parties but mainly due to the teething troubles and technical issues involved in shifting a process to the digital mode.

5. There is some controversy about the Petitioner being served with initial notice. The Petitioners claim that they never received such a notice. However, Mr Aravind points out that the notice was sent digitally to the email id available in the records of the Department. The record also bears out that the reply that the Petitioner filed was not considered, and the impugned order records that no reply was filed on behalf of the Petitioner. This was again due to the disconnect between the physical and digital modes of tendering the responses. But, again, we appreciate that all this may not be intentional, but because of the migration from physical to digital mode and the attendant issues in the early stages. In such circumstances, a grant of an additional opportunity to the Petitioner would be in order. Such an opportunity would not prejudice the Revenue and, at the same time, enable the Petitioner, a Government undertaking to place its version before the Revenue.

6. Therefore, considering the above circumstances, we quash the impugned order dated 29/7/2022, the notice dated 29/7/2022, and the notice dated 2/11/2022 on pages 20, 22, and 25, respectively, of the paper book of this Petition. Since the above order/notices are quashed so that the complaint of the failure of natural justice does not survive, the Revenue will be entitled to proceed according to law. Accordingly, We clarify that the Respondents will be entitled to proceed in terms of the notices dated 20/5/2022 and 12/7/2022 at Annexures C and D (pages 26 and 28) of the paper book of this Petition after considering the Petitioner's response.

7. Mr Pangam states that the Petitioner will digitally respond to the above notices within two weeks from today. If such a response is indeed filed digitally within two weeks from today, we are sure that the Respondents will consider such a response and proceed further following the law.

8. Accordingly, we dispose of the Rule in this Petition in the above terms.

9. There shall be no order for costs.

10. All concerned are to act on an authenticated copy of this order.

BHARAT P. DESHPANDE, J. **M.S. SONAK, J.**

SANTOSH S MHAMAL Digitally signed by SANTOSH S MHAMAL Date: 2023.02.09 18:18:38 +05'30'