IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5068 OF 2022

Narendra Pandurang Gandhi ….Petitioner

V/s.

The Assistant Commissioner of Income Tax, National Faceless Assessment Centre, Delhi and Anr. …Respondents

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Mr. Bharat Gadhavi i/b Tejesh Dande and Associates for Petitioner.
Mr. Suresh Kumar for Respondents.

CORAM : K.R. SHRIRAM &
DR. NEELA GOKHALE, JJ.
DATED : 7th NOVEMBER 2023

P.C. :

1. Though the assessment order has been passed under Section 147 read with Section 144 read with Section 144(B) of the Income Tax Act, 1961 (the Act) on 29th March 2022, counsel states that this court should entertain this petition under Article 226 of the Constitution of India and not direct petitioner to exhaust alternative remedy available under the Act because the impugned assessment order has been passed without following the principles of natural justice. Mr. Gadhavi states that the objections to reopening has not been considered and even personal hearing was not granted. The objections have been filed on 29th March 2022 and the assessment order has also been passed on 29th March 2022 at 10:14:37 IST. From the e-proceedings response acknowledgment filed with the petition, Mr. Suresh Kumar states it appears the objections have been uploaded on 29th March 2022 at 09:51 hours.

2. In our view it is impossible for someone to consider the reply with the documents uploaded and pass the assessment order within 20 minutes.

3. Keeping open the rights and contentions of the parties we hereby quash and set aside the assessment order dated 29th March 2022 and remanded the matter to Faceless Assessing Officer (FAO) for *denovo* consideration. The FAO shall after giving personal hearing to petitioner, notice whereof shall be communicated at least five working days in advance, may pass the assessment order as he deems fit in accordance with law. The order shall consider all submissions of petitioner and be a reasoned order. The assessment order to be passed by 31st January 2024.

4. Petition disposed.

5. We clarify that we have not made any observations on the merits of the matter.

6. In view of the above, all consequential demand notices, penalty notices are quashed and set aside.

(DR. NEELA GOKHALE, J.) **(K.R. SHRIRAM, J.)**