

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4868 OF 2023

Pritpal Singh Kalsi

..Petitioner

Versus

Union of India & Ors.

..Respondents

Mr. Krishna Pratap Singh for Petitioner.

Mr. Jitendra Mishra with Ms. Sangeeta Yadav for Respondents.

CORAM : G. S. KULKARNI &
JITENDRA JAIN, JJ.

DATE : DECEMBER 07, 2023.

P.C.:

1. This petition under Article 226 of the Constitution of India is filed
praying for the following reliefs:-

“a. Issue a Writ of Certiorari or Writ in the nature of Certiorari or any other appropriate Writ, Order or Direction calling for the records and proceedings dealing with the Impugned Order dated 18.10.2022 in the Petitioner’s case and after going into the legality, propriety and validity thereof, to quash and set aside the penalty of Rs.4,00,000/- (Rupees Four Lakh only) imposed on the Petitioner.

b. Restrain the Respondents from initiating recovery proceedings during the pendency and until the final disposal of the Petition, against the Petitioner herein.

c. Issue any other writ(s), order(s), or direction(s) as may be deemed fit and proper by this Hon’ble Court.”

2. The primary contention as urged on behalf of the petitioner is that the impugned order dated 18 October, 2022 passed on the petitioner’s revision by the Revisional Authority-Principal Commissioner & Ex-officio

Additional Secretary to Government of India was passed without an opportunity of hearing being granted to the petitioner, in as much as, the notice of the hearing issued by the Revisional Authority was addressed to the erstwhile advocate of the petitioner. Learned counsel for the petitioner has drawn our attention to the fact that the petitioner had informed the Revisional Authority that the newly appointed advocate would be representing the petitioner at the hearing before the Revisional Authority and notice be accordingly issued to the new advocate.

3. On the above limited issue, we had heard learned counsel for the parties on the earlier occasion when we had requested Mr. Mishra, learned counsel for the revenue to inform the Court as to whether the notices of hearing dated 23 February, 2022 and 02 March, 2022 as issued by the Revisional Authority were received by the petitioner or his advocate. Mr. Mishra has fairly stated that such notices were issued to the erstwhile advocate of the petitioner.

4. In the aforesaid circumstances, we are of the opinion that it would be in the interest of justice that the petitioner is granted a fresh opportunity of being heard by the Revisional Authority, so that an appropriate order in accordance with law can be passed. We accordingly propose to allow this petition on such limited issue by the following

order:-

ORDER

- i. The impugned order dated 18 October, 2022 passed by the Principal Commissioner & Ex-officio Additional Secretary to Government of India is quashed and set aside with a direction that the petitioner shall appear before the said authority on 15 December, 2023 at 02.30 p.m. when the Revisional Authority shall grant an opportunity of hearing to the petitioner through his advocate and proceed to pass an appropriate order in accordance with law.
- ii. Let such order be passed by the Revisional Authority as expeditiously as possible and in any event within a period of four weeks from the date of hearing.
- ii. All contentions of the parties are expressly kept open.
- iii. Mr. Krishna Pratap Singh, advocate representing the petitioner waives notice of hearing before the Revisional Authority.
- iv. Disposed of in the above terms. No costs.

[JITENDRA JAIN, J.]

[G. S. KULKARNI, J.]