IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1856 OF 2023

Genba Sopanrao Moze Trust. .. Petitioner

vs.

National e-assessment Centre,
New Delhi & ors. .. Respondents

Mr. Deepa Khare a/w. Mr. Upendra Lokegaonkar i/b. Mint & Confreres, for Petitioner.

Mr. Suresh Kumar, for Respondents.

CORAM : DHIRAJ SINGH THAKUR & KAMAL KHATA, JJ

DATE : 23RD FEBRUARY, 2023.

P.C.

1. The Petitioner challenges the order of Assessment dated 23rd April, 2021 passed under section 143(3) read with section 144B of the Income-tax Act. It is stated that the order of assessment was passed in violation of the principles of natural justice inasmuch as the Petitioner was not provided an appropriate opportunity to file its response to the show cause notice dated 13 April, 2021, which required the Petitioner to show cause as to why assessment should not be completed as per Draft Assessment Order. The stand of the Petitioner is that on account of the indisposition of the Petitioner's counsel who was suffering from Covid, a

request was made for extension of time for filing the response till 27th April, 2021. The request however was partially accepted and instead of the period which was sought by the Petitioner till 27th April, 2021, time till 19th April, 2021 was granted to file response, as per communication dated 16th April, 2021 issued by the Assessing Officer. Reasons for granting a shorter period for filing response to the show cause notice was that the assessment would get time barred on 30th April, 2021. Finally on account of inability of the Petitioner to file the response, the order of assessment impugned came to be passed on 23rd April, 2021.

2. The learned Counsel for the Petitioner urged that it was impossible for the Petitioner to have filed a response to the show cause notice on account of the Pandemic, as also on account of the fact that the Counsel of the Petitioner was suffering from Covid. Reliance has been placed upon the notification issued by the Government of Maharashtra dated 4th April, 2021 under the provisions of the Epidemic Diseases Act, 1897 and the Disaster Management Act, 2005, whereby a complete lock down was imposed in the region up to 30th April, 2021. It is stated that even the Government of India, Department of Revenue, Ministry of Finance had issued a press release dated 24th April, 2021

extending the time limit for passing any order of assessment or reassessment up till 30th June, 2021. It is therefore, stated that instead of passing the order of assessment on 23rd April, 2021, if the request of the Petitioner had been accepted, the time in any case could have got extended further till 30th June, 2021.

3. We have heard learned Counsel for the Petitioner as also Mr. Kumar, learned Counsel for the Respondents, who fairly states that in view of the pandemic prevailing in the State, as also the notification issued by the Government of Maharashtra imposing a complete lock down in the State, the Petitioner indeed was prevented from filing its response. We appreciate the fair stand adopted by learned Counsel for the Respondents in the peculiar facts and circumstances of the case as an officer of the Court.

4. Be that as it may, we have no hesitation in holding that the Petitioner could not have responded to the show cause notice dated 13th April, 2021 in view of the peculiar facts and circumstances of the case prevailing on account of the pandemic. Principles of natural justice are violated in the present case.

5. Be that as it may, we allow this Petition and set aside the order of assessment dated 23rd April, 2021. The matter is remanded back to the National Faceless Assessment Centre for passing orders afresh. The Petitioner would be at liberty to file its response to the show cause notice dated 13th April, 2021 within two weeks from the date the requisite portal is made available by the assessing officer to the Petitioner. The assessment proceedings be completed within four months. All consequential orders of demand and penalty shall stand quashed.

[KAMAL KHATA, J] **[DHIRAJ SINGH THAKUR, J]**