IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5984 OF 2023

Cummins India Limited ... Petitioner

Versus

1. Assistant Commissioner of Income-tax, Circle-1(1), Pune & Anr. ...Respondents

* * * * *

Mr.J.D. Mistri, Senior Advocate a/w. Mr.Jitendra Singh, Advocate for petitioner.

Mr.Suresh Kumar, Advocate for respondents.

CORAM : DHIRAJ SINGH THAKUR & KAMAL KHATA, J.J.

DATE : 3rd MAY, 2023.

<u>P C :</u>

1. One of the grounds urged by learned Senior Counsel for the petitioner before us, during the course of the hearing on 2nd May 2023, while challenging the order under section 270A of the Income Tax Act, 1961 ('the Act') was that the order could not have been passed under the Faceless Penalty Scheme, 2021 and that the same could be passed only by the Jurisdictional Assessing Officer. Besides this, it was also urged that the petitioner had been denied the opportunity of being heard which otherwise was mandatory as per the Scheme of the Act.

2. We had granted time to Mr.Kumar, learned counsel for the Revenue to take instructions in the matter. After taking instructions, it appears that the Revenue was not averse to the matter being remanded to the Jurisdictional Assessing Officer.

3. We, therefore, direct that the Jurisdictional Assessing Officer to pass appropriate orders in accordance with the Order F. No. 187/4/2021-ITA-I, dated 20th January, 2021 read with Notification S.O. 117(E) [No.2/2021/F.No.370145/51/2020-TPL] dated 12th January 2021. The Jurisdictional Assessing Officer shall also consider whether any orders need to be passed at all during the pendency of the appeal before the Tribunal. The petitioner be also given an opportunity of personal hearing and appropriate orders be passed. The impugned order dated 27th March 2023 is quashed.

4. The petition is disposed of accordingly.

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