IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13200 OF 2022

Aryan Pumps & Environment Solution Pvt. Ltd.
A company having its address at :
Survey No.38/2/2, Narhe Road, Narhe Gaon,
Haveli, Pune 411 041. ... Petitioner

Versus

1. Assessment Unit, Income Tax Department, National Faceless Assessment Centre, Through the Principal Chief Commissioner of Income Tax (National Faceless Assessment Centre, Delhi)

2 The Assistant Commissioner of Income-Tax, Circle 1(1), Pune

3 The Union of India
Through the Principal Secretary, Department of Revenue, Ministry of Finance, New Delhi ...Respondents

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Mr.Mihir Naniwadekar a/w. Mr.Rohan Deshpande i/b Ms.Farzeen Khambatta, Advocate for petitioner.

Mr.Suresh Kumar, Advocate for respondents.

CORAM : DHIRAJ SINGH THAKUR & KAMAL KHATA, JJ.

DATE : 13th JANUARY, 2023.

<u>P C :</u>

1. The petitioner challenges the order of assessment, dated 19th

September 2022 passed under section 143 (3) read with section 144B of the Income Tax Act, 1961 ('the Act').

2. The challenge, primarily, is on the ground that the order of assessment was passed, without considering the reply submitted by the petitioner to the show cause notice, dated 17th March 2022. It appears that by virtue of the show cause notice, dated 17th March 2022, the petitioner was required to show cause as to why the proposed variations, as suggested in the said show cause notice, be not made. The petitioner was required to submit its response, by 19th March 2022.

3. The petitioner appears to have submitted its response along with the documents, all numbering 527. Some of the documents so filed, were found to be not legible, which fact is even reflected in the order of assessment passed by the Assessing Officer.

4. The Assessing Officer, in the order of assessment, has clearly held that pages 11 to 45 and 253 to 516 of the compilation, totaling 35+264 pages could not be gone through by the said Assessing Officer as the same were not legible. It is in the light of

the aforementioned facts that learned counsel for the petitioner urged that in absence of a proper consideration of the documents filed in support of its response to the show cause notice, dated 17^{th} March 2022, the order of assessment would be unsustainable.

5. We have no reason to disagree with the arguments so advanced, as the reply to the show cause notice, unless and until, considered in its entirety, would render the opportunity so granted to the petitioner, quite illusory. Principles of natural justice would certainly be said to have been violated, if a proper consideration was not accorded to the documents, and the response in its correct perspective. It goes without saying that in case, the documents filed by the petitioner were not legible, the petitioner could have been asked to furnish legible copies of the same, instead of rushing through the matter for purposes of passing the order impugned.

6. We understand that the Assessing Officer might be constrained to pass the orders of assessment, keeping in view the period of limitation for passing such orders, yet the same cannot

be upheld, in violation of principles of natural justice, writ large on the face of such order of assessment.

7. Be that as it may, we set aside the order impugned and all consequent actions based thereupon. The Assessing Officer will pass fresh orders, after considering the reply and the documents, legible copies whereof would be furnished by the petitioner within one week from today. The order of assessment be passed preferably, within a period of four months. Legible copies be filed within a period of one week from the date, the assessee is given access to the concerned portal.

8. The writ petition stands disposed of.

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