

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.3693 OF 2021

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Digital India Payments Ltd.

..... Petitioner

Vs.

Union of India and Ors.

..... Respondents

Ms.Neha Sharma i/b Mr.Sriram Sridharan for petitioner
Mr.Suresh Kumar for Respondents

**CORAM: K.R. SHRIRAM, J &
 FIRDOSH P. POONIWALLA, J.**

DATED : 31st JULY 2023

P.C.

1. In paragraphs 29 and 30 of the petition, it is alleged that personal hearing by virtual mode was not completed due to technical error at the end of respondents and petitioner had also brought to the notice of respondents about this problem. In the affidavit in reply there is no denial. It is simply stated that the contents in the paragraphs 29 and 30 are general and factual in nature and hence, no comments are offered. In paragraph 31 of the petition, it is averred that petitioner did not receive any notice from respondent no.2 granting another date for virtual hearing. In the affidavit in reply this fact is not denied and it is simply stated that since it was getting time barred on 30th April 2021 and no sufficient time was available, no further correspondence with the assessee was possible

and on the basis of non availability of record, the assessment proceeding was completed.

2. When the court expressed to Mr.Suresh Kumar about these averments in the affidavit in reply, being unacceptable, Mr.Suresh Kumar in fairness stated that the Assessment Order dated 26th April 2021 be then quashed and the matter be remanded to the Assessing Officer for *denovo* consideration so that fresh Assessment Order will not contain any such defects.

3. Accordingly, keeping open all rights and contentions of the parties, the impugned order dated 26th April 2021 is quashed and set aside. Matter is remanded for *denovo* consideration.

4. Before any assessment order is passed which shall be made within 12 weeks from today, petitioner shall be given a personal hearing, notice whereof shall be communicated atleast five working days in advance.

5. If respondents are going to rely on any order or judgment of any Tribunal or Court, list thereof shall also be made available along with notice of personal hearing so that petitioner will be able to effectively deal with / distinguish the same.

6. Petition disposed. No order as to costs.

7. We clarify that we have not made any observation on the merits.

8. For completion of record, Registry to take rejoinder on file.

(FIRDOSH P.POONIWALLA, J.)

(K.R. SHRIRAM, J.)