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

WRIT PETITION NO. 2565 OF 2021

Manish Khera ….. Petitioner
Vs.
National e-Assessment
Centre (NeAC) and ors. ….. Respondents

Mr. Devendra H. Jain a/w Ms.Radha Halbe, for Petitioner.
Mr. Suresh Kumar, for Respondents.

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

DATED : JUNE 20, 2023

P.C.

1. Petitioner is impugning an assessment order dated 22/04/2021 passed under Section 143(3) read with Section 144B of the Income Tax Act, 1961 (‘the Act’), notice of demand dated 22/04/2021 received under Section 156 of the Act, show cause notice for initiating penalty proceedings dated 22/04/2021 received under Section 274 read with Section 270A of the Act on the ground that the assessment order has been passed without following the principles of natural justice.

2. It is petitioner’s case that petitioner received a notice dated 11/04/2021 calling upon petitioner to show cause as to why assessment should not be completed as per draft assessment order. The notice is issued at 15:21:28 hr. on 12/04/2021 and

petitioner was called upon to respond by 23:59 hours of 16/04/2021.

3. On 16/04/2021, petitioner informed respondents that authorized representative of petitioner, a Chartered Accountant – Mr.Vaibhav Mittal, was suffering from Covid and in view of the lock-down in Mumbai, travelling to office to access the documents and respond would be difficult. Some extra time was sought. Respondents on 22/04/2021 proceeded to pass the impugned assessment order without considering petitioner's request for extension to respond by simply stating that show cause notice was issued and duly served to the assessee but the assessee has not submitted any reply to the show cause notice. We would say that respondents have deliberately not mentioned about the request of petitioner from 16/04/2021. It is also clear that no notice of personal hearing was given to petitioner.

4. On 28/05/2021, respondents were directed to file reply within 4 weeks. Till date, no reply has been filed. Therefore, none of the averments or allegations of petitioner are controverted.

5. In the circumstances, we hereby quash and set aside the impugned assessment order dated 22/04/2021. Consequentially, notice of demand issued under Section 156 of the Act and show

cause notice for initiating penalty under Section 274 read with Section 270A of the Act dated 22/04/2021 are also quashed and set aside. We remand the matter for *denovo* consideration to the Jurisdictional Assessment Officer (JAO).

6. Within 2 weeks from today, petitioner shall respond to the show cause notice dated 11/04/2021. Within 6 weeks of receiving the response, JAO shall pass a reasoned order dealing with all submissions of petitioner but before passing any order, personal hearing shall be given, notice whereof shall be communicated atleast 5 working days in advance.

7. Petition disposed.

8. We clarify that we have not made any observations on merits of the matter.

(FIRDOSH P. POONIWALLA, J) **(K.R.SHRIRAM, J)**