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

WRIT PETITION NO. 2525 OF 2023

Maharashtra Oil Extraction
Private Limited ....Petitioner

V/s.
Deputy Commissioner of
Income Tax, Circle 4(3)(1),
Mumbai and Ors. ...Respondents

Dr. K. Shivaram, Senior Advocate a/w Mr. Shashi Bekal and Mr. Rahul Hakani for Petitioner.
Mr. Subir Kumar a/w Ms. Janhavi Hirlekar and Ms. Sruti Kalyanikar for Respondents-Revenue.

CORAM : K.R. SHRIRAM &
NEELA GOKHALE, JJ.
DATED : 25th SEPTEMBER 2023

P.C. :

1. After the petition was heard for some time and Mr. Subir Kumar strongly opposed the petition. The court brought to Mr. Subir Kumar's notice that in the Reassessment Order dated 31st May 2023 or in the affidavit in reply there is no denial of the fact that personal hearing was sought but was not granted and the Show Cause Notice gave less than seven days time when the Central Board of Direct Taxes (CBDT) circular provides for minimum 7 upto 30 days notice. When Mr.Subir Kumar was confronted with these facts by the court, Mr. Subir Kumar then left it to the Hon'ble Court to decide the appropriate action to be taken.

2. In view of what is recorded above, and the fact that personal hearing was not granted though requested for and the notice to respond to the Show Cause Notice was less than the minimum time even prescribed by the CBDT, we hereby quash and set aside the Reassessment Order dated 31st May 2023. The consequential Penalty Notice and the consequential Notice of Demand under Section 271 and Section 156 of the Income Tax Act, 1961 (the Act), respectively, both dated 31st May 2023 will also have to be quashed and set aside, which we hereby do.

3. Further, we direct as under :

(a) By 10th October 2023 the portal will be opened for petitioner to file response to the Show Cause Notice and petitioner shall be so intimated.

(b) By 16th October petitioner shall file to the Show Cause Notice dated 23rd May 2023 its reply/response together with documents.

(c) If Faceless Assessing Officer shall issue fresh notice to all those parties to whom notice under Section 133(6) of the Act had been issued earlier have not responded, under advice to petitioner, so that petitioner will be able to follow up with those parties. Those parties shall be given minimum 15 days time to respond to the notice.

(d) The Faceless Assessing Officer shall dispose the reassessment notice on or before 31st December 2023. Before passing any order he shall give personal hearing to petitioner, notice whereof shall be communicated atleast seven working days in advance. If any further clarification is required after receiving response from those third parties to the notices issued to them under Section 133(6) of the Act, reasonable time period should be given to petitioner to respond.

4. Petition disposed.

5. We have not made any observations on the merits of the matter.

6. All rights and contentions of petitioner are kept open.

(NEELA GOKHALE, J.) **(K.R. SHRIRAM, J.)**