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

**WRIT PETITION NO. 2245 OF 2024**

Seamax Logistics Ltd ...Petitioner
Versus
Income Tax Officer Ward 11(2)(1)-Mumbai & Ors. ...Respondents

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Mr Nishit Gandhi i/b Mr Ryan Saldanha for Petitioner.
Mr Arjun Gupta for Respondents-Revenue.

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**CORAM : K. R. SHRIRAM &**
**Dr. NEELA GOKHALE, JJ.**
**DATED : 6th MAY 2024**

**P.C. :**

1 Petitioner is impugning an assessment order, notice of demand under Section 156 of the Income Tax Act 1961 (the Act) and the tax computation sheet all dated 8th February 2024 and all consequential proceedings thereto including penalty proceedings initiated by respondents vide notice dated 12th February 2024 and recovery proceedings initiated vide notice dated 1st March 2024. It is petitioner's case that petitioner was unable to participate in the assessment proceedings because the Chartered Accountant, whom petitioner had engaged, one Mr. I. N. Shah suffered a heart attack and due to post cardiac issues, was not able to devote time for his professional commitments. The assessment order dated 8th February 2024 came to be passed under Section 144 read with Section 144B of the Act, that is on best judgment basis.

2 Mr. Gandhi states that petitioner did not respond to the notices in view of indisposition of the professional engaged by petitioner. Mr. Gupta States that multiple notices were issued to petitioner which remained unattended. In the affidavit in reply, the screenshot of email id to which it has been sent is also mentioned. There appears to be some discrepancies in the email id used. At the same time, without going into those details, in view of petitioner's past record having been assessed since 2008-09, it does not appear to be an intentional default on the part of petitioner. If the lapse of petitioner is condoned, it is possible that a meritorious matter may get affected by the same.

3 In the circumstances, without going into the details of the assessment, we hereby quash and set aside the impugned assessment order, notice of demand issued under Section 156 of the Act and the tax computation sheet all dated 8th February 2024 and all consequential proceedings thereto including penalty proceedings initiated by respondents vide notice dated 12th February 2024 and recovery proceedings initiated vide notice dated 1st March 2024, are also quashed and set aside. The matter is remanded to the Assessing Officer, who shall pass the assessment order on or before 31st August 2024. Before passing any order, a personal hearing shall be given to petitioner, notice whereof shall be communicated atleast five working days in advance.

4 Should petitioner wish to respond to all the notices, it may do so

within two weeks of being informed about the portal being open.

5 Petition disposed. No order as to costs.

6 All rights and contentions of the parties are kept open.

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