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

WRIT PETITION NO. 2432 OF 2024

Walking Tree (India) Private Limited **...Petitioner**
Versus
The National Faceless Assessment Centre & Ors. **...Respondents**

Dr. K. Shivaram, Senior Advocate i/b Mr. Rahul Hakani for Petitioner.
Mr. Suresh Kumar for Respondents-Revenue.

CORAM: K. R. SHRIRAM &
DR. NEELA GOKHALE, JJ.
DATED: 7th May 2024

PC :

1. Petitioner is aggrieved by an assessment order dated 28th March 2024 passed under Section 143(3) read with Section 144B of the Income Tax Act, 1961 ("**the Act**"). In normal circumstances, we might have directed Petitioner to exhaust its alternate remedy by filing an appeal. In this case, however, having heard Dr. Shivaram & Mr. Suresh Kumar and having considered the assessment order impugned in the petition, in our view, the assessment order has to be quashed and set aside and the matter remanded to the Assessing Officer ("**AO**") for *de-novo* consideration.

2. The reason for our decision is that admittedly the final show-cause notice dated 27th March 2024 was issued after working hours and Petitioner was given less than 24 hours' time to respond. This is notwithstanding the fact that Respondent No. 1 had not issued any notice for a period of almost six months, i.e., from August 2023 till February 2024. Dr. Shivaram submitted that the final show-cause notice dated 27th March 2024 was issued after office hours with a reply due date mentioned as 28th March 2024 at 14.00 hours'. Therefore, effectively only 4-5 hours were given to reply. Notwithstanding the short time, Petitioner submitted the details called for. The assessment order dated 28th March 2024 was passed within 4-5 hours of Petitioner filing its reply.

3. We are surprised with the alacrity shown by the Assessing Officer ("**AO**"). At the same time having considered the impugned assessment order, though the AO admits that the company has taken loan from its Directors, that loan has been added as unexplained income under Section 68 of the Act. The AO has proceeded on an erroneous presumption that in the income tax return filed by the Directors for Assessment Year 2022-2023, did not show sufficient income to be able to give such a loan. The fact is Chartered Accountants had issued Net-worth Certificate of each Director and the certificate show each Director having a net-worth in excess of Rs. 150 crores. In our view, the AO should have called upon Assessee to explain and than pass an unsustainable assessment order.

4. Therefore, we hereby quash and set aside the assessment order dated 28th March 2024 and remand the matter for *de-novo* consideration to the AO, who shall pass a reasoned assessment order on or before 31st July 2024. Before passing any order, a personal hearing shall be given to Petitioner, notice whereof shall be communicated atleast five working days in advance.

5. In view of the above, consequential notices/orders, if any, also stand quashed and set aside.

6. Petition disposed. No order as to costs.

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