IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6529 OF 2024

Mahesh K Salot (HUF) .. Petitioner

Versus

National Faceless Assessment Centre & Ors. .. Respondents

Mr.Devendra Jain a/w Shashank Mehta, Saukhya Lakade i/b Radha Halbe, Advocates for the Petitioner.

Mr.Akhileshwar Sharma, Advocate for the Respondents.

CORAM : B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.
DATE : SEPTEMBER 22, 2025

P. C.

1. Rule. Respondents waive service. With the consent of the parties, Rule made returnable forthwith and heard finally.

2. The above Writ Petition is filed challenging the impugned Assessement Order dated 4th March 2024 passed under Section 143(3) read with Section 144B. Consequently, the Demand Notice issued under Section 156 as well as the Penalty Show Causes Notices issued under Section 274 read with Section 270A and 271AAC(1) are also impugned.

3. The short ground on which the above Assessment Order is challenged is that the show cause notice issued before passing the Assessment Order was for making an addition of bank credits of Rs.5,43,49,761/- as unexplained money under Section 69A of the Income Tax Act, 1961, whereas the Assessment Order makes an addition with reference to something that is entirely different. The Assessment Order states that an amount of Rs.1,17,00,000/- remains unexplained in view of the provisions of Section 69A of the Act and accordingly are added back to the income of the Assessee. The amount of Rs.1,17,00,000/- was on account of certain purchases made by the Petitioner of two immovable properties. On the other hand, the amount of Rs.5,43,49,761/- is with reference to the bank credits of Kotak Mahindra Bank for Account No.1212122153. On this ground alone, the Assessment Order has to go, is the submission of the Petitioner.

4. In addition to the aforesaid argument, it is the case of the Petitioner that even otherwise no personal hearing was given to the Petitioner for the addition made [for A.Y.2022-23] of Rs.1,17,00,000/-. In other words, it is the contention of the Petitioner that the Assessment Order has been passed in breach of principles of natural justice, and therefore, this is yet another ground why the impugned Assessment Order is unsustainable. Lastly, it is contended on behalf of the Petitioner that in any event the amount of Rs.1,17,00,000/- added to the income of the Petitioner, and which was for purchase of immovable property, cannot be added under Section 69A of the IT Act. According to the Petitioner, Section 69A applies only where in any financial year the Assessee is found to be the owner of any money, bullion, jewellery or other valuable article, and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by the Assessee. According to the Petitioner, monies expended for the purchase of immovable properties can never fall under Section 69A, but if at all, would fall under Section 69, which is a section regarding unexplained investments. For all these reasons, the Petitioner contends that the above Petition be allowed.

5. On the other hand, the learned advocate appearing on behalf of the Revenue, submitted that the merits of the Assessment Order can be agitated only in an Appeal for which there is a separate forum. The discretionary jurisdiction of this Court ought not to be invoked when the Assessment Order is finalized, and in which the Petitioner has participated. If the Petitioner is not satisfied with the

Assessment Order, then, he can certainly agitate his grievances before the Commissioner of Income Tax (Appeals). Once the Assessment Order is passed by the Assessing Officer, it is for the Commissioner of Income Tax (Appeals) to adjudicate on the merits of the case or the validity of any Notice. On this basis, the learned advocate appearing on behalf of the Revenue submitted that the Petition has no merit and the same ought to be dismissed.

6. We have heard the learned counsel for the parties. We have also perused the papers and proceedings in the Writ Petition. We find considerable force in the arguments canvassed on behalf of the Petitioner. The Show Cause Notice dated 14th February 2024 issued to the Petitioner can be found at page 151 of the Paper Book. After setting out some facts, the Show Cause Notice, in paragraph 2.5, clearly states that the Petitioner is required to show cause as to why the bank credits of Rs.5,43,39,761/- cannot be treated as unexplained money in view of Section 69A of the IT Act and accordingly be added to the income of the Petitioner. In paragraph 2.3 of the Show Cause Notice it is clear that this amount of Rs.5,43,39,761/- is regarding bank credits in Account No.1212122153 with Kotak Mahindra Bank Ltd. In other words, the Petitioner was asked to show cause with reference to the entries in the aforesaid bank account. This addition was not made by the Assessing Officer in the impugned Assessment Order. In fact, in the impugned Assessment Order, the addition made is in relation to the monies paid for purchase of two immovable properties, and which according to the Assessing Officer, was not properly explained. This addition was for the sum of Rs.1,17,00,000/-. The Petitioner was never called upon to show cause with reference to this addition. Over and above this, there is also an addition of Rs.24,39,420/- being income earned under Section 56(2)X of the IT Act. As far as this amount is also concerned, the Petitioner was never called upon to show cause regarding this addition in the Show Cause Notice dated 14th February 2024.

7. Once these are the facts before us, we are clearly of the view that the Assessment Order cannot be allowed to stand as the same has been passed in breach of principles of natural justice. We, accordingly, set aside the impugned Assessment Order as well as the Demand Notice and the Penalty Notices issued to the Petitioner. We remand the matter back to the Assessing Officer to issue a fresh Show Cause Notice to the Petitioner, and thereafter take the proceedings to their logical conclusion. This entire exercise shall be completed by the Assessing

Officer by 31st December 2025 and the Petitioner shall fully co-operate with the Assessing Officer in that regard.

8. It is needless to clarify that before passing any fresh Assessment Order the Petitioner shall be given a personal hearing and only thereafter a speaking order shall be passed.

9. Rule is made absolute in the aforesaid terms and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

10. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR, J.] **[B. P. COLABAWALLA, J.]**