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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3966 OF 2025

Mahadeo Eknath Kondhare .. Petitioner
Versus
Income Tax Officer, Ward 2(5), Pune & Anr. .. Respondents

Mr. Rahul Sarda a/w Mr. Akshay Pawar for the petitioner.
Mr. Vikas T. Khanchandani for the respondents.

**CORAM M.S. Sonak &
Jitendra Jain, JJ.**
DATED: 24 March 2025

PC (M.S. Sonak, J.) :-

1. Heard learned counsel for the parties.
2. Rule. Rule is made returnable immediately at the request and with the consent of the learned counsel for the parties.
3. Learned counsel for the petitioner submits that on account of subsequent developments under which the petitioner has been issued Form-5 in accordance with Rule 7 of the Direct Tax Vivad Se Vishwas Rules, 2020, prayer clause (a) of this petition will not survive and stands worked out.
4. Learned counsel for the petitioner however, submits that prayer clause (b) would survive because, in the meantime by an order dated 25 July 2023, the petitioner's appeal against the assessment order has been dismissed by the appellate authority and even the Assessing Officer has imposed a penalty.
5. Now that Form-5 has already been issued to the petitioner, there is no question of imposing any penalty. Rule 6 of the Direct Tax Vivad Se Vishwas Rules, 2020 provides that subject to the

provisions of Section 5, the designated authority shall not institute any proceeding in respect of an offence; or impose or levy any penalty; or charge any interest under the Income-tax Act in respect of the tax arrear.

6. Accordingly, this petition will have to be allowed in terms of prayer clause (b) which reads as follows :-

“b) That this Hon'ble Court be pleased to quash and set aside the order dated 25.07.2023 passed by the National Faceless Appeal Centre and the order dated 31.12.2024 passed by the National Faceless Assessment Centre for Assessment Year 2012-13.”

7. Rule is made absolute in terms of prayer clause (b) of this petition without any costs order.

(Jitendra Jain, J)

(M.S. Sonak, J)