IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1392 OF 2025

Vallabhji Malsi & Co. .. Petitioner

Versus

The National Faceless Assessment Centre, Delhi & Ors .. Respondents

Mr. Aanchal Vyas i/b Mr. Dharan Gandhi*, Advocates for the Petitioner.*

Mr. Ravi Rattesar*, Advocate for the Respondent.*

CORAM: B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.

DATE: DECEMBER 24, 2025

P. C.

1. Mentioned. Not on board. Taken on board.

2. The above praecipe has been moved for speaking to the minutes of the order dated 24.11.2025.

3. The correction sought is in paragraph 2 of the said order in which the Assessment Year is mentioned as 2023-2024 instead of the year 2022-2023. Since this is the only correction we direct that the year "**2023-**

24” appearing in paragraph 2 of the order dated 24th November 2025 shall be substituted with the year “**2022-23**”.

4. No other correction is sought. The correction shall be carried out in the original order as well as in the copy uploaded on the server.

5. The praecipe for speaking to the minutes is accordingly disposed of.

6. 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.]**

For the sake of convenience the order dated 24th November 2025 (as corrected) is reproduced hereunder:-

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WRIT PETITION NO. 1392 OF 2025

Vallabhji Malsi & Co. .. Petitioner

Versus

The National Faceless Assessment Centre,
Delhi & Ors .. Respondents

Mr. Dharan Gandhi (through VC) with Ms. Aanchal Vyas, *Advocates for the Petitioner.*

Mr. Ravi Rattesar*, Advocate for the Respondent No. 2.*

CORAM: B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.
DATE: NOVEMBER 24, 2025

P. C.

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

2. The assessment year in question is Assessment Year **2022-23**. The present petition has been filed challenging the Assessment Order passed under section 143(3) read with section 144B of the Income-tax Act, 1961 ('the Act'), dated 29.03.2024, the Notice of Demand issued under section 156 of the Act dated 29.03.2024 as well as the impugned show cause notice for levy of penalty issued under section 274 read with section 270A of the Act dated 29.03.2024 and 18.04.2024.

3. Vide order dated 09.05.2024, ad-interim relief was granted in terms of prayer clause (d). Such ad-interim relief was granted until 31.07.2024.

4. Meanwhile, it appears, that during the pendency of the present petition, an order imposing penalty was passed under section 270A of the Act dated 16.07.2024. This order was brought on record by the Petitioner by filing an additional affidavit affirmed on 27.07.2024. Vide order dated 29.07.2024, even the penalty order passed under section 270A of the Act was stayed.

5. Mr. Gandhi, the learned Counsel for the Petitioner, submitted that the impugned assessment order was passed in gross violation of principles of natural justice. He brought to our attention the following instances of violation of principles of natural justice:

(a) The Petitioner was granted only 2 days time (both of which were holidays) to reply to the show cause notice as against a minimum seven days' time as prescribed by the internal SOP issued by the Respondent Revenue;

(b) No personal hearing through video conferencing was granted despite a specific request of the Petitioner. The time for video conferencing was 11.15 am on 27.03.2024 but the email of same was received only at 11.30 am on 27.03.2024. Thus, instead of intimating the holding of a personal hearing few days before the date of hearing, the Petitioner received the notice of a personal hearing only after the time had lapsed. Further, Respondent No.1 has mentioned in the impugned order that the video conferencing was adjourned to 5.00 pm on 27.03.2024 and Petitioner did not attend the same. However, no such intimation was ever received by the Petitioner, and neither is it reflected on the Income tax portal. The fact is that the Petitioner logged into the link provided for a virtual hearing, but Respondent No.1 did not start the video conferencing;

(c) The books of account of the Petitioner were rejected, however, no show cause notice was ever issued on the said issue.

Mr. Gandhi also submitted that even the Penalty Order was passed in gross violation of principles of natural justice, without granting sufficient opportunity of being heard. Further, he submitted that the penalty order was passed ignoring the order passed by this Court on 09.05.2024, staying the assessment order and the show cause notice for penalty.

6. Mr. Rattessar, the learned Counsel for the Respondent, on the other hand, submitted that there is no violation of principles of natural justice as the Petitioner was granted sufficient time to file reply. Further, the time of seven days as provided for in the internal SOP is flexible and that the same can be reduced depending upon the limitation issue. On the aspect of personal hearing, he drew our attention to paragraph 4.3 of the impugned order which records that the Petitioner did not attend the hearing. Thus, he

submitted that the Petitioner should be relegated to avail the alternate remedy and the petition should be dismissed.

7. We have heard the learned counsel for the parties. We find much substance in the contentions raised by the Petitioner. Firstly, the show cause notice was issued on 23.03.2024 which is a Saturday. Such notice is digitally signed at 20.07 hours. The said show cause notice granted the Petitioner time to reply by 26.03.2024 by 11.15 hours. It is noted that 24.03.2024 was a Sunday and 25.03.2024 was a holiday on account of Holi. This means that the Petitioner was not granted even one working day to reply to the show cause notice. This, itself demonstrates gross violation of principles of natural justice. The SOPs have been issued by Respondent No. 1, and paragraph N.1.3 thereof clearly specifies that to ensure adherence to the principles of natural justice, minimum seven days response time has to be given, and such time can be curtailed keeping in view the limitation date for completion of the assessment. Respondent No. 1 has not given any good reason to issue the show cause notice only at the fag end i.e., seven days before the limitation date and to grant not even one working day to file a reply. We, thus, find that the time given to the Petitioner to reply was inadequate.

8. Moreover, we also find that the Petitioner had sought a personal hearing. It is mandatory to provide a personal hearing in terms of section 144B(6)(viii) of the Act. The Petitioner has brought on record the email sent by Respondent No. 1 on 27.03.2024 at 11.30AM which stated that the virtual hearing was scheduled on the same day at 11.15AM. Thus, the notice of personal hearing was issued after the time for the personal hearing had lapsed. This was objected to by the Petitioner vide its reply dated 27.03.2024. The Petitioner has also attached screenshots of the portal, wherein it appears, that it had logged onto the portal, but the meeting was not started by the host. Thus, the Petitioner was clearly not granted a personal hearing. In fact, we also find force in the contention of the Petitioner that the notice of the personal hearing was itself issued on the same day of the hearing and it did not grant sufficient time to the Petitioner.

9. In light of the above discussion, we have no hesitation in quashing and setting aside the Assessment Order passed under section 143(3) read with section 144B of the Act dated 29.03.2024, the consequential Notice of Demand issued under section 156 of the Act dated 29.03.2024, as well as the consequential show-cause notices for levy of penalty issued under section 274 read with section 270A of the Act. We also quash and set aside

the Penalty Order dated 16.07.2024 passed under section 270A of the Act, and the Notice of Demand in that regard.

10. We now remand the matter back to the Assessing Officer. He shall consider the matter denovo. He shall issue a fresh Show Cause Notice to the Petitioner bringing out clearly the proposed addition and disallowance, grant a reasonable opportunity of being heard to the Petitioner including sufficient time to file a reply to the notice. The reply to the Show Cause Notice shall be filed within a period of two weeks from the date of service of the said fresh Show Cause Notice. Before passing the Assessment Order, a personal hearing shall be granted to the Petitioner. Notice of the personal hearing shall be given at least five working days in advance. If any decisions are relied upon, then the Petitioner will be put to adequate notice of not less than seven working days, to counter such decisions. The Assessment Order passed shall be a speaking order and shall deal with all the submissions of the Petitioner. The Assessment Order shall be passed on or before 31.03.2026.

11. We hasten to add that we have not made any observations or findings on the merits of the additions made in the Assessment Order. All rights and contentions of the parties are kept open in that regard.

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

13. 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.]**

Rohit Ghuge (PA)