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

WRIT PETITION NO.2961 OF 2024

Trent Ltd. ...Petitioner

Versus

Deputy Commissioner of
Income-tax Circle – 2(3)(1),
Mumbai & Ors. ...Respondents

Mr. Nishant Thakkar a/w Mr. Hiten Thakkar i/b. Lumiere Law Partners for Petitioner.
Mr. Abhishek Mishra for Respondent.

CORAM : M. S. Sonak &
Jitendra Jain, JJ.
DATED : 28 January 2025

ORAL JUDGMENT:- *(Per M. S. Sonak, J.)*

1. Heard learned counsel for the parties.

2. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned counsel for the parties.

3. The Petitioner complains against the adjustment of refund of an amount of Rs.4,91,45,369/- against the outstanding demand of assessment year 2018-2019 in the purported exercise of powers under Section 245 of the Income Tax Act, 1961 (“ the IT Act”).

4. An intimation proposing an adjustment of Rs.2.82 crores and Rs.72,209/- was sent to the petitioner. However, after that, the petitioner was not granted a hearing, and no formal order was made under Section 245 of the IT Act. Instead, by communication dated 16 March 2024, the Petitioner was informed of the adjustment against the outstanding demand for assessment year 2018-2019. In our judgment, the procedure followed by the Respondents grossly violates the principles of natural justice and fair play.

5. The record shows that the Petitioner addressed communications dated 5 December 2023, 6 December 2023 and 7 December 2023 to the Respondents regarding objections to the proposed adjustments. There was no consideration of these objections. The petitioner was granted no opportunity of a hearing. No formal order was also made dealing with the petitioner's objections. All this violates the principles of natural justice.

6. In ***Hindustan Unilever Ltd. vs. Deputy Commissioner of Income-tax-1(1)***[1]**.** The Coordinate Bench of this Court has held that the principles of natural justice must be followed before making any orders under Section 245 or making any adjustments under Section 245. We reiterated this position in ***Sulzer Pumps India Private Limited vs. Assistant Commissioner of Income-tax, Circle (15)(3)(2), Mumbai***[2] and the connected matters, disposed of on 20 January 2025.

7. In ***Sulzer Pumps India Private Limited (supra),*** we found fault with the revenue's order of adjustment under Section 245 of the IT Act and directed the revenue to deposit the adjusted amount in this Court. A similar course of action will have to be adopted in this case because the impugned adjustment was in gross breach of the principles of natural justice and fair play.

8. Accordingly, we quash the adjustments made in the purported exercise of powers under Section 245 of the IT Act and direct the Respondents to deposit an amount of Rs.4,91,45,369/- in this Court within two weeks from today. The Registry should invest this amount in

1 [2015] 60 taxmann.com 326 (Bombay)
2 Writ Petition No.4891 of 2024

a nationalised bank and it will abide by the orders of the Respondents under Section 245 of the IT Act after giving reasonable opportunity of hearing to the Petitioner.

9. The Respondents must consider the Petitioner's objections and afford the Petitioner an opportunity of hearing. A reasoned order must be made and communicated to the Petitioner. This exercise must be completed within two months from this order's uploading date.

10. Suppose no orders are made within two months. In that case, the Petitioner is granted liberty to apply for withdrawal of the deposited amount together with interest, if any, that shall be accrued on such amount. Otherwise, the deposit will abide by the orders made by the Respondents under Section 245 of the IT Act.

11. The Petitioner's stay application concerning assessment year 2018-2019 is pending before the assessing officer. The same should be disposed of in accordance with the law within four weeks of today.

12. The Rule is made absolute in the above terms without any cost order. All concerned to act on an authenticated copy of this order.

(Jitendra S. Jain, J.) **(M. S. Sonak, J.)**

Signed by: Sayyed Saeed Ali
Designation: PA To Honourable Judge
Date: 29/01/2025 14:52:29