Pradnya



# IN THE HIGH COURT OF JUDICATURE AT BOMBAY
## ORDINARY ORIGINAL CIVIL JURISDICTION
## WRIT PETITION NO. 5053 OF 2024

Ashokkumar Haribhai Gajera, ]
Age-59, 31, Kalpvruksha, ]
27 B G Kher Marg, Malabar Hill, ]
Mumbai – 400 006 ] …Petitioner

***VERSUS***

**1.** Union of India, ]
through Secretary, ]
Ministry of Finance ]
Department of Revenue, ]
Room No.46, North Block, ]
New Delhi – 110 001 ]

**2.** Assistant Commissioner of Income-]
tax, Circle 19(1) ]
506, Piramal Chambers, ]
Lalbaug, Mumbai – 400012 ]

**3.** Assessing Officer, ]
National Faceless Assessment ]
Centre (NFAC) ]
New Delhi ]

**4.** Principal Commissioner of Income ]
tax-19, 617, Piramal Chambers, ]
Lalbaug, Mumbai – 400012 ]

**5.** Commissioner of Income tax ]
Appeal, National Faceless Appeal ]
Centre (NFAC), New Delhi ] …Respondents

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APPEARANCES-

**Adv Rajendra**, for the Petitioner.

**Adv Mamta Omle**, for the Respondents.

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**CORAM : M.S.Sonak &**
**Jitendra Jain, JJ.**

**DATED : 21 January 2025**

**<u>ORAL JUDGMENT (*Per Jitendra Jain, J*):-</u>**

**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.** This Petition for Assessment Year 2022-2023 is filed seeking following prayer :-

> "A. The Hon'ble Court be pleased to issue a writ of mandamus or any other writ, order or direction in the nature of writ of mandamus to stay the demand of Rs.30.75 Crores (approx), raised with regard to the Valuation of a property, till the disposal of appeal by the First Appellate Authority."

**4.** The demand for above Assessment Year arose on account of assessment order in which based on valuation of a property, report of which was not shared with the assessee as per the learned counsel for the Petitioner, addition was made. The assessee has challenged the assessment order by filing an appeal and had also filed an application for stay of demand with the Assessing Officer under Section 220(6) of the Income Tax Act.

**5.** The Assessing Officer vide his order dated 27 November 2024 has directed the Petitioner to pay 20% of the demand. Aggrieved by the said order the Petitioner has made an application for stay of the demand with the Principal Commissioner of Income Tax ("PCIT") and also before the

Commissioner of Income Tax Appeals ["CIT(A)"]. The stay application filed before the PCIT and CIT(A) is pending as on today.

**6.** Meanwhile, on a very similar situation in the Petitioner's own case for the Assessment Year 2015-2016, the PCIT vide order dated 10 December 2024 has stayed the demand.

**7.** In the light of above facts, we direct the PCIT to decide the stay application filed with him for the Assessment Year under consideration within a period of four weeks from the date of uploading the present order.

**8.** The PCIT to grant the personal hearing to the Petitioner and after hearing the Petitioner would pass a detailed speaking order deciding the stay application.

**9.** Since in Assessment Year 2015-2016, the department has stayed the recovery of the demand, by way of an interim order we direct the Respondents not to take any coercive action for recovery for a period of four weeks from the date of uploading the present order.

**10.** The Petitioner is directed to appear before the PCIT on 28 January 2025 and file an authenticated copy of this order so that the stay application can be taken up for hearing as directed above.

**11.** The Petition is disposed of in the above terms.

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