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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13646 OF 2023

Vitesco Technologies India Pvt Ltd .. Petitioner

Versus

Union of India & Ors. .. Respondents

Mr.Bharat Raichandani a/w Suraj Ghadigaonkar, Bhagrati Sahu i/b UBR Legal Advocates, Advocates for the Petitioner.

Mr.Akhileshwar Sharma, Advocate for the Respondents.

CORAM: B. P. COLABAWALLA &
FARHAN P. DUBASH, JJ.
DATE: OCTOBER 16, 2026

P. C.

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

2. The Petitioner is, *inter alia*, engaged in the business of manufacturing and trading of Metallic Substrates for automotive emission control for application in two and three wheelers, cars, light and heavy-duty commercial vehicles and off-road and stationary engines.

3. The Petitioner is filing periodical Income Tax Returns on income derived from business activity undertaken by them. For the Assessment Year 2020-2021, the Petitioner filed its original return on 14th February 2021, declaring a total income of Rs.45,99,50,470/-. Thereafter, the Petitioner filed a revised Return of Income on 31st March 2021 declaring a total income of Rs.45,64,75,470/-.

4. The Petitioner's case was selected for scrutiny under Section 143(3) of the Income Tax Act, 1961 (**IT Act**). A Notice dated 29th June 2021 was issued to the Petitioner under Section 143(2) of the IT Act. This was followed by a Notice dated 12th December 2021 seeking accounts and documents from the Petitioner. The Petitioner filed a reply on 24th March 2022 stating that the Notice under Section 142(1) dated 12th December 2021 was received only on 18th March 2022.

5. A further Notice dated 20th July 2023 was issued by the Respondents calling for certain documents from the Petitioner. The Petitioner accordingly submitted a reply on 28th July 2023. Another Notice dated 07th August 2023 came to be issued seeking additional documents as well as balance information from the Petitioner. The

Petitioner *vide* reply dated 20th August 2023 submitted all the documents sought by the Department.

6. However, a Show Cause Notice came to be issued to the Petitioner on 21st September 2023. The Show Cause Notice called upon the Petitioner to submit a reply within 3 days i.e. on or before 24th September 2023. The Show Cause Notice also called upon the Petitioner to make a request by clicking the video conferencing option for availing opportunity of a personal hearing.

7. The Petitioner, by its letter dated 24th September 2023, sought an adjournment for responding to the said Notice. Thereafter, by letter dated 25th September 2023, the Petitioner specifically requested an opportunity of a personal hearing through Video Conferencing on 27th September 2023.

8. However, without granting the aforesaid opportunity of personal hearing, Respondent No.3 proceeded to pass a Draft Assessment Order under Section 144C(1) of the IT Act, on 26th September 2023 itself, proposing additions aggregating to Rs.2,26,13,34,635/-.

9. The Petitioner, thereafter, approached this Court by filing the present Petition on 26th October 2023. The present Petition was served on the Respondents on the same day. However, Respondent No.3, within four days from receipt of the notice of filing of the present Petition, proceeded to pass the Final Assessment Order on 30th October 2023. The said Final Assessment Order dated 30th October 2023 has been passed under Section 144C(3) read with Section 144B of the IT Act confirming the aforesaid additions. This order was also passed *ex-parte*.

10. Mr.Raichandani, the learned counsel appearing for the Petitioner, submits that in the facts narrated above, and which are undisputed, it is clear that no opportunity of a personal hearing was granted. On this ground alone the proceedings are initiated, was the submission.

11. Mr. Sharma, the learned advocate appearing for the Respondents does not dispute that the Petitioner made a request for Video Conferencing. He, however, submits that due to some technical glitches, the Petitioner could not avail of the Video Conferencing facility. He relies upon the affidavit of the Jurisdictional Assessing Officer,

namely, one Ms. Alpana Dubey, Dy. Commissioner of Income Tax-12 Pune affirmed on 19th January 2024 admitting that technical glitches prevented the Petitioner from availing the Video Conferencing facility.

12. Para 6 of the said Affidavit is reproduced below:

> *"6. In view of the above facts and discussion it is respectfully prayed that the matter may kindly be restored back to file of Faceless Assessing officer since the request made by the Petitioner for video conferencing could not be entertained by the FAO due to technical glitch in the system. The FAO will reconsider all the remaining submissions Petitioner wants to make and will pass order in accordance with the Principles of Natural Justice."*

13. The only issue which arises for consideration is whether Respondent No.3 could have proceeded to pass the Draft Assessment Order and the Final Assessment Order as well, without granting the Petitioner, a personal hearing. We appreciate the fair stand taken by the Respondent-Jurisdictional Assessing Officer.

14. The Petitioner's grievance is justified as also admitted in the affidavit dated 19th January 2024 of the Jurisdictional Assessing Officer. The Petitioner specifically requested a personal hearing through Video Conferencing. The Petitioner could not avail the Video Conferencing facility for no fault of its own. Respondent No.3, however, proceeded to pass the Draft Assessment Order on 26th September 2023, without

affording the requested hearing.

15. Section 144B(6)(vii) & (viii) of the Act incorporates the principles of natural justice into the faceless assessment procedure and specifically contemplates an opportunity of personal hearing through a Video Conferencing facility where such request is made. The inability to avail the Video Conferencing facility due to technical glitches, in the facts of the present case, constitutes violation of the principles of natural justice.

16. In view of the aforesaid, the Draft Assessment Order dated 26th September 2023 and the consequential Final Assessment Order dated 30th October 2023 cannot be sustained.

17. Thus, the following order :-

1. The Draft Assessment Order dated 26th September 2023 passed under Section 144C(1) of the Income Tax Act, 1961, is quashed and set aside;
2. Consequently, the Final Assessment Order dated 30th October 2023 passed under Section 144C(3) read with

Section 144B of the Act, and all consequential proceedings arising therefrom, are also quashed and set aside;

3. The assessment proceedings are remanded to the concerned Respondent No. 3 for fresh adjudication in accordance with law.

4. Respondent No.3 shall afford the Petitioner a reasonable and effective opportunity of hearing, including a personal hearing through Video Conferencing, before passing any fresh draft order.

5. The Petitioner shall be permitted to place on record its written submissions and such documents/material as it may deem necessary, and the same shall be duly considered by Respondent No.3 before passing a fresh draft order.

18. We hasten to add that we have not made any observation on merits. Respondent No.3 shall decide the proceedings afresh, independently and in accordance with law. All contentions of the parties on the merits of the assessment are expressly kept open.

19. 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.

20. 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.

[FARHAN P. DUBASH, J.] **[B. P. COLABAWALLA, J.]**