



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

WRIT PETITION NO. 2286 OF 2025

Sanjiv Manoharlal Sethi

.. Petitioner

Versus

Deputy Commissioner of Income Tax
Circle 41(1)(1), Mumbai and Ors.

.. Respondents

Adv. Ajay R. Singh, a/w Akshay Pawar, for the Petitioner.

Adv. Ravi Rattesar, for the Respondents.

**CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.**

DATE: JANUARY 13, 2026

P. C.

- 1.** Mentioned. With the consent of the parties taken out of turn.
- 2.** Rule. Respondents waive service. By consent of the parties, Rule is made returnable forthwith and heard finally.
- 3.** The facts are in a narrow compass. The assessment of the Petitioner for Assessment Year (A.Y.) 2023-2024 was picked up for scrutiny under the Faceless Assessment Scheme as contained in Section 144B of the

Income Tax Act, 1961 (for short “**the IT Act**”). Pursuant to the same, various notices were issued to the Petitioner by the 2nd Respondent herein. To these notices, replies alongwith relevant documents, were filed by the Petitioner from time to time.

4. Thereafter, the NFAC issued a Final Show Cause Notice dated 7th February 2025 proposing variation to the income as returned by the Petitioner. The Petitioner was required to file a reply to this notice by 21st February 2025. Accordingly, the Petitioner vide communication dated 17th February 2025 and 21st February 2025 filed its reply to the Show Cause Notice alongwith annexures and:-

(a) also sought a Video Conference before finalisation of the assessment proceedings and submit the balance details and explanation in furtherance of the discussion.

(b) The Petitioner also intimated the problems faced for uploading the details of documents and requested to refer the matter to the Verification Unit (VU).

(c) The Petitioner further sought copies of replies received in response to notices issued under section 133(6) of the Act which are referred and relied in SCN, so that the Petitioner can reconcile the difference and explain the same.

(d) The Petitioner further requested to invoke provisions of Section 144A of the Act, requesting the range head to issue directions on the issues raised in SCN.

5. Respondent No.2 via email dated 21st February 2025 intimated to the petitioner that the video conferencing herein fixed as sought for by the Petitioner would take place on 25th March 2025. Instead of waiting for the video conference hearing, Respondent No.2 directly passed the impugned order on 17th March 2025 under Section 143(3) read with Section 144B of the IT Act. By the impugned order, the total income of the Petitioner was assessed at Rs.19,31,68,001/- for A.Y. 2023-24. It is against this order, and particularly the denial of the opportunity of a hearing, that the petitioner has approached this Court seeking quashing of the Assessment Order, the consequential demand notice, and the penalty and other proceedings. The basic ground is that the same is in violation of the principles of natural justice and the provisions of Section 144B of the IT Act.

6. Mr. Ravi Rattesar, the learned Counsel appearing on behalf of the Revenue, sought time to file an Affidavit in Reply to the above Writ Petition. However, when we enquired from Mr. Rattesar as to the facts narrated above, he fairly stated that he does not dispute the factual position, namely that time was given to appear through video conferencing on 25th March 2025, and the impugned order was passed prior thereto on 17th March 2025. Once this factual position is not disputed before us, we are clearly of the view that the Assessment Order and all other subsequent notices are vitiated and cannot be allowed to stand for breaching the principles of natural justice.

7. In fact, Section 144B(6)(vii) *inter alia* clearly *inter alia* stipulates that where a variation is proposed in the income or in the draft assessment order, the assessee or his authorised representative may request a personal hearing so as to make his oral submissions or present his case before the income tax authority of the relevant unit. Section 144B(6)(viii) stipulates that where a request for personal a hearing has been received, the income tax authority shall allow such hearing, which shall be conducted exclusively through video conferencing or video telephony.

8. Admittedly, in the facts of the present case, this request was made, and the video conference was scheduled for 25th March 2025. Despite this, the impugned assessment order was passed prior thereto, namely on 17th March 2025. For all these reasons, as mentioned earlier, the impugned Assessment Order cannot stand and is unsustainable.

9. Accordingly, we set aside the impugned Assessment Order and all notices issued pursuant thereto. The assessment is now restored to the file of the Assessing Officer at the stage of the Show Cause Notice dated 7th February 2025. The Assessing Officer is directed to consider the reply filed by the Petitioner, and thereafter, deal with the requests made by the Petitioner to provide copies of the replies received under Section 133(6) of the IT Act, and also the request to invoke the provisions of Section 144A.

10. The Assessing Officer shall pass a speaking order after fully hearing the petitioner.

11. We make it clear that we have not expressed any opinion on the merits of the matter, which shall be considered by the Assessing Officer in the proceedings now remanded back to him.

12. 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.

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.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]