

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

WRIT PETITION NO. 5328 OF 2022

Kumar Agro Products Pvt. Ltd. }
2413, East Street, Kumar Capital }
First Floor Camp, Pune - 411001 } ...Petitioner

Versus

1 Deputy Commissioner of Income }
Tax, Circle 7, Room No. 316, 3rd }
Floor, Aayakar Sadan, Bodhi }
Towers, Salisbury Park, Gultekdi, }
Pune. }

2. The Assessment Unit, National }
Faceless Assessment Centre, E- }
Ramp, Jawaharlal Nehru Stadium }
New Delhi - 110003 }

3. The National Faceless Assess- }
ment Centre through the Chief }
Commissioner of Income-tax, E- }
Ramp, Jawaharlal Nehru Stadium, }
New Delhi - 110003 }

4. Union of India, }
Through the Secretary, }
Department of Revenue, }
Ministry of Finance, Govt. of India }
North Block, New Delhi-110 001 } ...Respondents

Mr. Nishant Thakkar a/w Mr. Hiten Chande i/b Lumiere Law
Partners, Advocate for the Petitioner.

Mr. Suresh Kumar, Advocate for the Respondents.

**CORAM : DHIRAJ SINGH THAKUR AND
KAMAL KHATA, JJ.**

DATE : 19th JANUARY, 2023.

ORDER

PER DHIRAJ SINGH THAKUR, J.:

. Reply has not been filed by the Respondents, however, considering the limited nature of controversy, the petition is admitted to hearing and taken up for final disposal with the consent of learned Counsel for the parties.

2. The Petitioner challenges the order of assessment dated 29th September, 2022 passed under Section 143(3) r/w Section 144B of the Income Tax Act, 1961 (“the Act”) relevant to the assessment year 2020-21, primarily on the ground of violation of principles of natural justice.

It is stated that return of income was filed by the Petitioner on 07th January, 2021. The return of income was selected for scrutiny assessment by the Respondents. Notice under Section 142(1) of the Act, dated 28th February, 2022 was issued requiring the Petitioner to submit certain details, which the Petitioner claims were submitted. The Respondents then issued a show cause notice dated 22nd September, 2022, whereby additions were sought to be made in

the return of income. The Petitioner was asked to either accept the proposed variation or file objections to the same by 11:00 hours on 24th September, 2022.

3. The Petitioner it appears sought extension of time by virtue of communication dated 22nd September, 2022 for submitting its response, which was allowed vide communication dated 23rd September, 2022. Time thus was extended till 11:00 a.m. till 26th September, 2022.

The stand of the Petitioner is that even when the Petitioner was ready to upload its response to the show cause notice dated 22nd September, 2022, the Respondents failed to update their portal to reflect the extended time up to 26th September, 2022. The portal it is stated continued to reflect 24th September, 2022 as the date by which the response had to be uploaded. It is thus stated that the system did not permit the Petitioner to upload its response.

4. A screenshot of the portal is also placed on record, which does reflect the response date as 24th September, 2022, which in fact ought to have been reflected as 26th September, 2022. Considering the time constraints, the order of assessment thus came to be

passed on 29th September, 2022, without the response of the Petitioner. The Petitioner was thus denied an opportunity of submitting its response as also was denied an opportunity of being heard, which was otherwise to be granted even as per the show cause notice dated 22nd September, 2022. The failure on the part of the Respondents to update their official portal, cannot be permitted to result in any sort of prejudice to the Petitioner, Notwithstanding the fact that an order of assessment has been passed in gross violation of principles of natural justice.

5. Be that as it may, the petition is allowed. The order of assessment dated 29th September, 2022 and all consequential orders based thereupon are set aside. A fresh order be passed, after the Petitioner is granted an opportunity to upload its response to the show cause notice dated 22nd September, 2022, for which the requisite portal may be made available to the Petitioner. An opportunity of being heard may also be provided to the Petitioner. Needful be done preferably within three months.

6. The writ petition is disposed of accordingly.

(KAMAL KHATA, J.)

(DHIRAJ SINGH THAKUR, J.)