

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.28212 OF 2021

Milestone Brandcom Private Limited]	... Petitioner
Versus		
National Faceless Assessment Centre, New Delhi & Anr.]	... Respondents

Mr. Rahul Sarda a/w Ms. Ami Brahmhatt i/b Ms. Neelam Jain for
Petitioner.

Mr. Sham V. Walve a/w Mr. Pritish Chatterjee for Respondents – Revenue.

**CORAM :- K. R. SHRIRAM &
AMIT B. BORKAR, JJ.**
DATE :- 14 DECEMBER, 2021

P. C. :-

1. This is another matter where Court's precious judicial time is spent due to utter disregard for orders and remarkable ineptitude of the Assessing Officer.

2. Petitioner was served with a draft Assessment Order dated 06/05/2021 with a notice by which Petitioner was called upon to show cause as to why the assessment should not be completed as per the draft Assessment Order. In paragraph 4, it is stated, '*But the assessee company did not respond or remain silent on this issue*'. Petitioner responded to this by its letter dated 12/05/2021 and also sought personal hearing. In the reply, Petitioner explained why it could not respond earlier and also showed cause as to why the order as per draft Assessment Order should

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not be passed. Notwithstanding this reply, Respondents have gone ahead and passed the impugned order dated 23/09/2021 almost 4.1/2 months later simply cutting and pasting the draft Assessment Order. Paragraph 4 of the Assessment Order also reads as, '*But the assessee company did not respond or remain silent on this issue*'. No personal hearing has been granted and the reply dated 12/05/2021 has also not been considered.

3. In our view, there has been total non-application of mind and we would add gross abuse of process by Respondents. Due to the actions / inaction of Respondents, parties are made to incur substantial legal costs and Court's judicial time has also been wasted. It is another case in which, in our view, costs have to be imposed on the Assessing Officer hoping that the concerned parties will also take action against the Assessing Officer for passing such orders without application of mind.

4. The Assessment Order dated 23/09/2021 is hereby quashed and set aside. The matter is remanded for *de novo* consideration. The Assessing Officer, who will not be the same officer who passed the earlier Assessment Order, shall consider the reply filed by Petitioner on 12/05/2021 and pass an Assessment Order as he deems fit in accordance with law, within 8 weeks from the time this order gets uploaded but before passing the order shall give a personal hearing to Petitioner. The notice of personal hearing shall be issued at least one week in advance.

5. Consequently, notices issued under Sections 156 and 270A are also quashed and set aside.

6. As regards the Assessing Officer who has passed the Assessment Order, the Assessing Officer shall pay a sum of Rs.10,000/- (Rupees Ten Thousand Only) as donation from his / her personal account to P. M. Cares Fund. The account details are as under :

Name of the Account	:	PM CARES
Account Number	:	60355358964
IFSC	:	MAHB0001160
Branch	:	UPSC – New Delhi

7. The said Assessing Officer shall thereafter file an Affidavit of proof of payment within 2 weeks of this order getting uploaded and annex thereto a copy of bank's statement proving that it has been paid from the Assessing Officer's personal account, under advise to Petitioner's Advocate. If Petitioner's Advocate does not receive this Affidavit within 2 weeks of this order getting uploaded, liberty is granted to Petitioner's Advocate to mention this matter for compliance.

8. Petition disposed.

(AMIT B. BORKAR, J.)

(K. R. SHRIRAM, J.)