

INCOME TAX : Where assessee claimed that there was glitch in operation of Faceless Assessment Scheme and it was not afforded opportunity before passing final assessment order, operation of assessment order passed under Section 143(3) read with Section 144B to be stayed

[2021] 127 taxmann.com 339 (Bombay)

HIGH COURT OF BOMBAY

Raja Builders

v.

National Faceless Assessment Centre

**K. K. TATED AND ABHAY AHUJA, JJ.
WRIT PETITION (L) NO. 11224 OF 2021
MAY 13, 2021**

Dharan V. Gandhi, Adv. for the Petitioner. Sham Walve, AGP for the Respondent.

ORDER

1. Heard learned counsel for the parties.
2. Learned counsel for Petitioner submits that there appears to be glitches in the operation of the Faceless Assessment Scheme. He submits that one such instance, is the present petition where by show cause notice dated 20th April 2021, a draft assessment order had been issued to Petitioner requiring to show cause as to why the assessment should not be completed in terms of the draft assessment order. He submits that the said show cause appeared for the first time on the E-fling portal on 22nd April 2021 and on the same day he fled an online reply requesting for an opportunity of being heard. On 23rd April 2021, he fled a detailed reply to the show cause notice with documentary evidences. However, without considering his request for hearing or the detailed reply, assessment order dated 23rd April 2021 came to be passed, even though the time limit to pass the assessment order was extended to 30th June 2021. He submits that in pursuance of the assessment order, there is a notice of demand for a sum of Rs. 17,71,87,220/- in addition to the penalty proceedings that have been initiated.
3. Mr. Sham Walve, learned counsel for the Respondents submits that the matter is appearing for the first time and seeks time to take instructions in the matter and to file affidavit-in-reply.
4. Having regard to the aforesaid, we pass the following order:

ORDER

- (i) Pending hearing and final disposal of the Petition, the operation of the assessment order passed under section 143 (3) read with Section 144B of the Act dated 23rd April 2021 and the notice of demand in Form No. 156 dated 23rd April 2021 as well as the show cause notice under section 274 read with Section 270A and 271AAC of the Act dated 23rdApril 2021 are stayed.
- (ii) Respondents to file their reply on or before 18th June 2021, with copy to the other side.
- (iii) Rejoinder, if any, to file on or before 25th June 2021, with copy to other side.
- (iv) List the matter to 30th June 2021.