



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 24366 OF 2025

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KMG Wires Private Limited

.. Petitioner

Versus

The National Faceless Assessment Centre,
Delhi and Others

.. Respondents

Mr. Dharan V. Gandhi a/w Aanchal Vyas, Advocates for the Petitioner.

Mr. Akhileshwar Sharma, Advocate for the Respondents.

CORAM: B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.

DATE: OCTOBER 6, 2025

P. C.

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

2. The above Writ Petition is filed by the Petitioner *inter alia*
challenging the Assessment Order under Section 143(3) read with Section
144B of the Income Tax Act, 1961, dated 27th March 2025, for the
Assessment Year 2023-24. By the impugned Assessment Order, Respondent
No. 1 has assessed the total income of the Petitioner at Rs.27.91 Crores in

place of Rs. 3.09 Crores returned by the Petitioner. This apart, the Notice of Demand issued under Section 156 of the Act is also impugned.

3. At the outset, the learned advocate appearing on behalf of the Petitioner, fairly stated that the Petitioner has already filed an Appeal challenging the Assessment Order to save limitation. He, however, submitted that this is a fit case where the Writ Court ought to interfere, as there has been a complete breach of the principles of natural justice. Further, he submitted that if this Court sets aside the Assessment Order, then he shall withdraw the Appeal filed before Commissioner of Income-Tax (Appeals).

4. On perusing the impugned Assessment Order, we find that two additions were made. The first addition was disallowance of purchases of Rs. 2,15,89,932/- from one Dhanlaxmi Metal Industries mainly on the basis that the said party did not reply to the Notice under Section 133(6) of the Act. The second addition was in respect of the unsecured loans from directors, wherein peak balance of Rs. 22,66,06,740/- was added. While making this addition, even the opening balance was considered and to support the same, reliance was placed on certain judgments.

5. The Petitioner has challenged the said Assessment Order on the ground that the same has been passed in breach of principles of natural justice. Mr. Gandhi, the learned Counsel for the Petitioner, submitted as under :-

- a. The first addition of purchases of Rs. 2,15,89,932/- from one Dhanlaxmi Metal Industries was primarily made on the basis that the said party did not reply to the Notice under Section 133(6) of the Act. This is factually incorrect. The said party had replied to the Notice under Section 133(6) of the Act on 8th March 2025. Not only did the said party confirm the transactions with the Petitioner but provided voluminous details/evidences in that regard. Thus, the addition was made in ignorance and without considering the reply filed.
- b. Insofar as the second addition of peak balance in respect of loans from directors are concerned, it was submitted that firstly, the Petitioner was never asked to show cause as to why the peak balance should not be added. Further, no basis/working has been provided as to how

the peak balance was arrived at. Most importantly, while calculating the peak balance, the opening balance of loans are also considered and for the same, reliance has been placed on three decisions. However, these decisions are not in existence at all. On the contrary, various High Courts including this Court, has taken a view that the opening balance cannot be added under Section 68 of the Act.

6. Per contra, Mr. Sharma, the learned Counsel for the Respondent, submitted that since, the Petitioner had already availed of the alternate remedy, then it should be relegated to exhaust the same. Further, on merits, he submitted that the addition for purchases of Rs. 2,15,89,932/- from one Dhanlaxmi Metal Industries, Surat [as recorded in para 3.4.1.2 of the Assessment Order] was made on the ground that on spot enquiry by the Verification Unit of the department, at the said address, no such industry was found to be working. The security man informed that some industrial activity of copper extracting work was being done about 1 1/2 years ago. However, Mr. Sharma fairly pointed out that in the Affidavit-In-Reply dated 22nd September 2025, the Jurisdictional Assessing Officer has admitted that the response of the said Dhanlaxmi Metal Industries, Surat [to the notice under

Section 133(6)] appears to be not taken into consideration while passing the Assessment Order. He, further fairly submitted that reference to some judgments in the Assessment Order which could not be found, was an error. This error has been rectified by the JAO by passing rectification order dated 22nd September 2025. However, on merits, the addition is correctly made, was the submission.

7. Mr. Gandhi, in rejoinder, submitted that once the grievances raised by the Petitioner have not been disputed, then the same demonstrates that the impugned order has been passed in gross violation of the principles of natural justice. If that be the case, then this Court should interfere with the said order. Moreover, he submitted that even the rectification order, though not brought on record, does not resolve the grievances raised.

8. Having perused the papers and the submissions of the parties, we find that the Assessment Order is, indeed, passed in breach of the principles of natural justice. On the first addition, it is apparent that the addition was made without considering the reply to the Notice under Section 133(6) of the Act. On page 568, the Petitioner has annexed the copy of the Notice dated 4th March 2025 issued to the supplier of the Petitioner under Section 133(6), wherein he was asked to furnish various details by 5th March

2025. The said supplier had duly filed his reply on 8th March 2025 which is available at page 571 of the Petition. In this reply, not only did the supplier confirm the transaction but also provided various documents in support thereof like invoices, e-way bills, transport receipt, GST returns etc. The reply with the supporting documents itself ran into 100 pages. Further, such reply was filed much before the impugned order was passed. Thus, it is apparent that such a crucial piece of evidence, though available, was not considered by Respondent No. 1 and in fact, it was stated in the Assessment Order that no such reply has been filed. Now, in the Reply Affidavit, an apology is tendered for not considering the reply filed by the supplier.

9. On the second issue of addition of peak balances in respect of loans from directors, it can be seen that while calculating peak balance, Respondent No. 1 has considered the opening balance, and for which purpose, he has relied upon three decisions. The judicial decisions relied upon are completely non-existent. In other words, there are no such decisions at all which are sought to be relied upon by Respondent No. 1. It is for Respondent No. 1 to show from where such decisions were fetched. In this era of Artificial Intelligence ('AI'), one tends to place much reliance on the results thrown open by the system. However, when one is exercising quasi judicial functions, it goes without saying that such results [which are thrown

open by AI] are not to be blindly relied upon, but the same should be duly cross verified before using them. Otherwise mistakes like the present one creep in. It is also one of the grievances of the Petitioner that they are clueless as to how the figures are arrived at as no basis or working was ever shown to the Petitioner, nor was any Show Cause Notice issued before making the addition of peak balance. Even this grievance of the Petitioner is justified.

10. Thus, in the peculiar facts of the present case, the Petitioner should not be relegated to avail the alternate remedy. We find that this a fit case to interfere under Article 226 of the Constitution of India.

11. In view of the foregoing discussion, we hereby quash and set aside the Assessment Order passed under Section 143(3) read with Section 144B of the Act dated 27th March 2025, for A.Y.-2023-24, the Notice of Demand under Section 156 of the Act dated 27th March 2025 as well as the consequential Show Cause Notice for levy of penalty issued under Section 274 read with Section 271AAC of the Act dated 27th March 2025.

12. We remand the matter back to the file of the Assessing Officer. He shall issue a fresh Show Cause Notice to the Petitioner bringing out clearly the proposed addition and disallowance, grant reasonable opportunity of

being heard to the Petitioner including sufficient time to file a reply to the notice. Before passing the Assessment Order, a personal hearing shall be granted to the Petitioner. If any decisions are relied upon, then the Petitioner will be put to adequate notice of not less than 7 days, to counter such judgments. The Assessment Order passed shall be a speaking order and shall deal with all the submissions of the Petitioner. The Assessment Order shall be passed on or before 31st December 2025.

13. We hasten to add that we have not made any observations or findings on the merits of the additions made in the Assessment Order. All rights and contentions of the parties are kept open in that regard.

14. The Writ Petition is disposed of in the aforesaid terms. However, there shall be no order as to costs.

15. 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.

[AMIT S. JAMSANDEKAR, J.]

[B. P. COLABAWALLA, J.]

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