

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**

D.B. Civil Writ Petition No. 4633/2022

Smt. Tamanna Begum W/o Mohammed Sher Khan, Aged About  
63 Years, R/o Khawaja Bagh, Village Sawa, Distt. Chittorgarh -  
312613 (Rajasthan)

-----Petitioner

Versus

1. Union Of India, Through The Secretary, Ministry Of  
Finance, Department Of Revenue, North Block, New Delhi.
2. The National Faceles Assessment Centre, Income Tax  
Department, Ministry Of Finance, Inside Jawaharlal Nehru  
Stadium, New Delhi

-----Respondents

---

For Petitioner(s) : Mr. Anjay Kothari  
Mr. Mukesh Gurjar

For Respondent(s) : Mr. K. K. Bissa

---

**HON'BLE MR. JUSTICE VIJAY BISHNOI**  
**HON'BLE MR. JUSTICE MUNNURI LAXMAN**  
**Order**

**04/01/2024**

This writ petition has been filed by the petitioner being aggrieved with the assessment order dated 24.09.2021 passed by the respondent No.2.

The challenge to the impugned assessment order is mainly on the ground that before passing of the said assessment order, a show cause notice with a draft assessment order, has not been served upon the petitioner, which is mandatory as per Section 144-B of the Income Tax Act, 1961 (hereinafter to be referred as 'the IT Act').

Learned counsel for the petitioner has placed reliance on the decision of the Hon'ble Supreme Court rendered in ***Additional Joint Deputy Assistant Commissioner of Income Tax Officer***

**& Ors. Vs. Multiplier Brand Solutions Pvt. Ltd.,** reported in **2023 SCC Online SC 688** and argued that the Hon'ble Supreme Court in a similar matter, has set aside the assessment order and remanded the matter to the Assessment Officer to pass a fresh order in accordance with law.

Learned counsel appearing for the respondent is not in position to dispute the fact that the mandatory requirement of issuing show cause notice with a draft assessment order has not been complied with before passing of the impugned assessment order.

Heard learned counsel for the parties.

The Hon'ble Supreme Court in **Additional Joint Deputy Assistant Commissioner of Income Tax Officer's** case (supra) held as under :

"4. Having heard Shri Balbir Singh, learned ASG, appearing of the Revenue and Shri Ambhoj Kumar Sinha, learned counsel appearing for the respondent-assessee and having gone through the impugned judgment and order passed by the High Court and considering the fact that the Assessment Order was passed without issuing a show cause notice with a draft Assessment Order as was mandatorily required under Section 144-B of the Act, as such, it cannot be said that the High Court has committed any error. However, at the same time, considering the fact that the Faceless Assessment Scheme has been introduced recently and therefore, the Revenue ought to have been given some leverage to correct themselves and take the corrective measures and therefore the High Court ought to have remanded the matter to the Assessment Officer to pass a fresh order in accordance with law, after following the due procedure as required under the law, namely, more particularly, under Section 144-B of the Act.

5. In view of the above for the reasons stated above, we modify the impugned judgment and order passed by the High Court and remand the matter to the Assessment Officer to pass a fresh Assessment Order, after following due procedure in accordance with law under Section 144-B of the Act.

6. All the contentions/defences which are available to the assessee on merits are kept open to be considered by the Assessing Officer in accordance with law and on its own merits. "

In view of the above, this writ petition is allowed and the impugned assessment order dated 24.09.2021 is set aside.

The matter is remanded to the Assessment Officer to pass a fresh order after following the due procedure as provided under Section 144-B of the IT Act.

Stay petition is disposed of.

**(MUNNURI LAXMAN),J**

**(VIJAY BISHNOI),J**

74-Arun/-