ITEM NO.13 COURT NO.12

(Corrected) SECTION IX

SUPREME COURT OF INDIA **RECORD OF PROCEEDINGS**

Petition(s) for Special Leave to Appeal (C) No(s). 4906/2022

(Arising out of impugned final judgment and order dated 11-10-2021 1625/2021 passed by the High Court Of Judicature At Bombay)

NATIONAL FACELESS ASSESSMENT CENTRE (FORMERLY KNOWN AS NATIONAL E ASSESSMENT CENTRE) & ORS. Petitioner(s)

VERSUS

MANTRA INDUSTRIES LIMITED

Respondent(s)

(FOR ADMISSION and I.R.)

Date: 11-04-2022 This petition was called on for hearing today.

HON'BLE MR. JUSTICE M.R. SHAH CORAM:

HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Petitioner(s) Mr. Balbir Singh, ASG

Ms. Gargi Khanna, Adv.

Ms. Praveena Gautam, Adv.

Mr. Shyam Gopal, Adv.

Ms. Chinmayee Chandra, Adv.

Mr. Raj Bahadur Yadav, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following ORDER

Mr. Balbir Singh, learned ASG, has vehemently submitted that, against the assessment order, the High Court ought not to have entertained the Writ Petition and ought to have relegated the original writ petitioner to avail statutory remedy of appeal before the CIT(A). It is further submitted that one of the grounds on which the High Court has set aside the assessment order was subsection (9) of Section 144B of the Income Tax Act, 1961, (for short Act') which, at the relevant time, provided that assessment made shall be *non est*, if such assessment is not made in

accordance with the procedure laid down under the said Section. It is submitted that, as such, sub-section (9) of Section 144B of the

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Act has been deleted with effect from 01.04.2021 and the provision

to declare the assessment as *non est* if such assessment is not made

in accordance with the procedure laid down under Section 144B of

the Act has been deleted. It is submitted that therefore the

aforesaid ground shall not be made available to the assessee. It

is submitted that therefore the assessment order would continue and

the assessee, if aggrieved, was required to prefer an Appeal before

the CIT(A). It is further submitted that, even the observations

made by the High Court in the impugned order made, in para 9, are

also not warranted, in the facts and circumstances of the case,

more particularly, when the entire procedure before assessment was

followed and thereafter even the legislature also deleted the

provision of sub-section (9) of Section 144B of the Act

retrospectively with effect from 01.04.2021.

Issue notice, returnable on 04.05.2022.

Dasti, in addition, is permitted.

In the meantime, the observations made by the High Court in para 9 of the impugned judgment and order are ordered to be stayed.

(R. NATARAJAN) ASTT. REGISTRAR-cum-PS

(NISHA TRIPATHI)
BRANCH OFFICER