

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 599 OF 2025

Dhananjay Vasantao Deshmukh Huf Through Its Karta Dhananjay
Alias Annasaheb Vasantao Deshmukh

VERSUS

The Union Of India Through The Secretary And Others

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Advocate for the Petitioner : Mr. Ramesh Nanasaheb Thete

Advocate for Respondent : Mr. Alok Sharma

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**CORAM : S.G. MEHARE &
SHAILESH P. BRAHME, JJ.**

DATED : JANUARY 14, 2025

PER COURT :

1. The petitioner has preferred this writ petition mainly on the ground that before the assessment was done, sufficient time was not granted. In fact, seven days notice was necessarily to be granted as per the standard operating practice. The notice was issued a day before the assessment was done. Therefore, the principle of natural justice has not been followed.

2. To bolster his argument, he relied on the judgment of Principal Seat at Bombay in the case of Cheftalk Food and Hospitality Services Vs. Income Tax Officer Ward 921 in Writ Petition No.2919 of 2024 decided on 13.08.2024, Buli Chemicals India (P) Ltd. Vs. Assessment Unit Income Tax Dept. and Ors in Writ Petition No.10642 of 2023 decided on 28.08.2023 and the case of Tin Box Company Vs. Commissioner of Income Tax, AIR 2001 SC 1391. He would submit

that since opportunity has not been granted to the petitioner, the assessment done by the assessing authority is illegal.

3. The admitted facts are that against the impugned assessment, the petitioner has already preferred an appeal, which is pending. During the pendency of the appeal, he moved an application for interim protection before the assessing authority, who has declined to grant any interim protection as 20% of the disputed demand is a condition precedent to grant stay or any interim protection. Admittedly, the last show cause was issued on 21.09.2021 calling upon the petitioner to file reply on 23.09.2021. The petitioner failed to respond the notice. Hence, the authority passed the impugned order on 24.09.2021.

4. During the course of arguments, Brother Judge put a question on the facts of the case of Cheftalk (supra) that whether in that case, the appeal was pending. The petitioner seeks time to gather instructions on this fact. Time granted.

5. Stand over to 21.01.2025.

(SHAILESH P. BRAHME, J.)

(S.G. MEHARE, J.)