IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 2974 OF 2015
WITH
WRIT PETITION (L) NO. 2975 OF 2015

Mrs. Bharti Jaiprakash Gajaria .. Petitioner

v/s.

The Deputy Commissioner of Income
Tax & Ors. ..Respondents

Mr. P.J. Pardiwalla, Sr. Counsel a/w Madhur Agarwal, Atul Jasani for the petitioner
Mr. Charanjeet Chanderpal for the respondents

CORAM : M.S. SANKLECHA &
G.S. KULKARNI, J.J.

DATED : 10th DECEMBER, 2015.

P.C.

1. At the request of the Counsel, both the Petitions are taken up for final disposal at the stage of admission.

2. Each of these two petitions under Article 226 of the Constitution of India challenge the two independent orders dated 30th September, 2015 one for Assessment Year 2006-07 and the

other for Assessment Year 2007-08. Both the impugned order impose penalty under Section 271(1)(c) of the Income Tax Act, 1961 (the Act) for the two concerned years.

3. It is an undisputed position that both the impugned orders for Assessment Years 2006-07 and 2007-08 have been passed without granting any personal hearing to the petitioner.

4. It is also contended by the Petitioner that it seems that the Assessing Officer has proceeded to pass the impugned orders on the basis that the period of limitation to pass orders under Section 275 of the Act expires on 30th September, 2015 as evident from letter dated 29th September, 2015. This according to the Petitioner is not the correct interpretation of Section 275 of the Act.

5. In the above view, we are setting aside the impugned orders dated 30th September, 2015 and restoring the issue for fresh disposal to the Assessing Officer after following the principles of natural justice. The Assessing Officer would also hear the petitioner's submissions with regard to the proper interpretation of

Section 275 of the Act while passing a fresh order.

6. Needless to state that all contentions of the parties are left open excepting that the Petitioners will not contend that the time to pass orders on penalty expired on 30th September, 2015. Further, the period spent from 30th September, 2015 to a period of two weeks from the date of this order shall be excluded in computing the period of limitation in passing orders in respect of penalty.

7. Both the Writ Petitions are disposed of in the above terms.

(G.S. KULKARNI, J.) **(M.S. SANKLECHA, J.)**