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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11686 OF 2016

Vijay R. Jasuja .. Petitioner.
V/s.
The Assistant Commissioner of Income-Tax
Circle-2, Pune And Others .. Respondents.

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Mr. Vimal Gutpa, Senior Counsel, a/w. Mr. Arjun Gupta, i/b. Mr. Ashish S. Gabhale, for the Petitioner.

Mr. Ashok Kotangale, for the Respondents.

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CORAM: M.S.SANKLECHA, &
S.C. GUPTE, JJ.
DATE : 26 OCTOBER, 2016.

P.C.:

. At the request of the Counsel, the petition is disposed of finally at the stage of admission.

2. This petition under Article 226 challenges the notice dated 17 March 2016 issued under Section 148 of the Income Tax Act, 1961 (the Act). The impugned notice seeks to reopen the Assessment for Assessment Year 2011-12. Besides the order dated 26 August 2016 disposing of the Petitioner's objections to the impugned reopening notice is also challenged. The Petitioner has inter alia also challenged the fact that no sanction had been obtained by the Assessing Officer from the Additional Commissioner of Income Tax before issuing the impugned notice.

3. Mr. Kotangale, learned Counsel for the Revenue, very fairly states that the Assessing Officer would provide the Petitioner with a copy of the sanction granted by the Additional Commissioner of Income Tax for issuing the impugned notice. Mr. Kotangale in unison with the Petitioner's Counsel states that the order dated 26 August 2016 disposing of the Petitioner's objections be set aside as it would be passed afresh on the objections to be filed by the Petitioner after receipt of copy of the sanction of the Additional Commissioner of Income Tax from the Assessing Officer. Mr. Kotangale states that the sanction granted by the Additional Commissioner of Income Tax would be made available to the Petitioner within two weeks from today. The Petitioner states that he would file his objections, if any, on obtaining a copy of the sanction within a period of two weeks from its receipt. Thereafter, Mr. Kotangale states that the Assessing Officer would dispose of the objections within a period of six weeks on the receipt of the objections. In view of the time of ten weeks taken in the above processes, further period of four weeks aggregating to fourteen weeks would be excluded while computing the period of limitation under Section 153 of the Act to pass an assessment order on the reopening notice dated 17 March 2016.

4. It is made clear that the Assessing Officer would dispose of the objections, if any, filed by the Petitioner within ten weeks from today. It is also reiterated that in terms of this Court's order in **Asian Paints vs. DCIT 296 ITR 96**, the Assessing Officer would not initiate any reassessment proceedings for a further period of four weeks from the communication of the order disposing of the objections. Therefore, we have provided for exclusion of fourteen weeks to compute the period of limitation to pass an assessment order in terms of Section 153 of the Act.

5. In view of the joint request by the Counsel, the impugned order dated 26 August 2016 of the Assessing Officer disposing of the Petitioner's objections to the impugned reopening notice is quashed and set aside. It would be decided afresh on the Petitioner filing its objections to the impugned notice on receipt of copy of the sanction of the Additional Commissioner of Income Tax to issue the impugned notice. All contentions left open.

6. Petition is disposed of in above terms. No order as to costs.

(S.C. GUPTE,J.) **(M.S.SANKLECHA,J.)**