IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 3215 OF 2015
WITH
WRIT PETITION (L) NO. 3216 OF 2015
WITH
WRIT PETITION (L) NO. 3218 OF 2015
WITH
WRIT PETITION (L) NO. 3219 OF 2015
WITH
WRIT PETITION (L) NO. 3220 OF 2015
WITH
WRIT PETITION (L) NO. 3221 OF 2015
WITH
WRIT PETITION (L) NO. 3223 OF 2015

Kairavi Agencies Pvt.Ltd. ... Petitioner
v/s
The Deputy Commissioner of Income Tax-6(3)(2), Mumbai and others ... Respondents

Mr Madhur Agarwal i/b Mr Atul K. Jasani for Petitioner.
Mr A.R. Malhotra with Mr N.A. Kazi for Respondents.

CORAM : M.S. SANKLECHA AND
B.P. COLABAWALLA JJ.
DATE : 20th JANUARY, 2016

P.C.:-

1. In these Petitions, challenge is to the seven notices all

dated 10th March 2015 issued under Section 153C of the Income Tax Act 1961 (the Act) by the Assessing Officer essentially on the ground that the same are without jurisdiction as there was no satisfaction recorded by Assessing Officer that the documents forwarded to him consequent to a search have a bearing on the income of the Petitioner.

2. These Petitions had come up for admission on 9th December 2015 at which time, the Petitions were adjourned at the instance of the Revenue to 14th January 2016. However, in the meantime, the Respondents were directed not to proceed with the impugned notices dated 10th March 2015 issued under section 153C of the Act. The Revenue has now filed an affidavit of the Assessing Officer one Mr Rajesh Kumar Yadav, Deputy Commissioner of Income Tax, Circle 6(3)(2), Mumbai dated 18th January 2016 in which it is stated that he has recorded his satisfaction with regard to documents having a bearing on the income of the Petitioner before issuing the impugned notices. The affidavit further states that the satisfaction note has been communicated to the Petitioner on 6th January 2016. In the above view, the Petitions as filed have now become infructuous.

3. However, Mr Agarwal, learned counsel appearing for the Petitioner, submits that reading of the satisfaction note itself would establish that the issuance of the impugned notices dated 10th March 2015 under section 153C of the Act is not justified. However, we are of the view that if the Petitioner has a grievance on the merits of the satisfaction note not being sufficient to issue the impugned notices, then it would be appropriate for the Petitioner to file fresh Petitions pointing out the alleged lacuna in the same within a period of two weeks from today.

4. In the meantime, the impugned notices dated 10th March 2015 are stayed for a period of two weeks from today. This stay is essentially granted so as to exclude the period of limitation for the Assessing Officer to pass an order of assessment consequent to notices issued under Section 153C of the Act and also prohibit the Revenue from proceeding with the notices for a period of two weeks. In the above two weeks if the Petitioner does not challenge the merits of the satisfaction note by filing new Petitions and obtaining a stay in those Petitions,

this stay would expire. However, it is made clear that this stay of the impugned notices would expire on 3rd February 2016.

5. All contentions are left open.

6. Petitions are disposed of in the above terms. No order as to costs.

(B.P.COLABAWALLA, J.) (M.S. SANKLECHA, J.)