R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13771 OF 2018
WITH
WRIT PETITION NO. 13772 OF 2018
WITH
WRIT PETITION NO. 13773 OF 2018
WITH
WRIT PETITION NO. 13774 OF 2018

Pratap Vitthal Bandal .. Petitioner
Vs
Union of India & Ors. .. Respondents

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- Mr. Makarand D. Adkar a/w Mr. Dhaval S. Deshpande, Mr. Amit Arsiwala, Mr. Nikhil Mengde and Aashit Kankriya i/by Amir Arsiwala for the Petitioner
- Mr. Sham Walve for the Respondents

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CORAM : AKIL KURESHI &
M.S. SANKLECHA, JJ.

DATE : DECEMBER 6, 2018.

P.C.:

1. The petitioners in these petitions are common. The issues presented in these petitions are also common. For convenience, we may refer to the facts arising in Writ Petition No. 13771 of 2018.

2. The petitioner, an individual, has primarily prayed for a direction to be heard before the valuation report is finalized by respondent No. 2 - District Valuation Officer ("**the DVO**" for short). At the outset, learned counsel for the petitioner stated that though the petitioner has made the additional prayer for setting aside the notice for reopening of assessment, the same is not pressed in this petition, of course, keeping all the contentions of the petitioners open which may be raised at the appropriate stage.

3. The petitioner's sole prayer pressed before us as noted above, arises out of the petitioner's objection to a report of the valuation by the DVO dated 23.7.2018 which concerns four immovable properties. The contention of the petitioner is that this report was finalized without following the requirements of hearing to be granted to the petitioner in terms of sub-section 4 of Section 142A of the Income Tax Act, 1961 ("**the Act**" for short).

4. Learned counsel for the petitioner submitted that if the petitioner was granted reasonable opportunity of hearing, the petitioner would have been in a position to produce materials on record pointing out that the valuation of the properties in question is far below what the DVO wanted to adopt. He further submitted that some of the properties covered under the report did not even belong to the petitioner.

5. Having heard the learned counsel for the parties and having perused the documents on record, we are not inclined to interfere at this intermediary stage when the Assessing Officer has yet to pass any final order of assessment. It is always open for the petitioner to contest the contents of the report before the Assessing Officer. As is clear from sub-section 7 of Section 142A of the Act, this provision provides that the Assessing Officer may, on receipt of the report from the Valuation Officer, and after giving the assessee an opportunity of being heard, take into account such report in making the assessment or reassessment. Thus, even this provision enjoins a duty on the Assessing Officer to hear the assessee on the report of the DVO before he can act upon the same. At this stage, the petitioner would have ample opportunity to contest the report on all grounds including on the ground that reasonable opportunity of hearing as envisaged under sub-section 4 of Section 142A of the Act was not granted. We have not examined the validity of this contention. This observation would not limit the petitioner's objection only to this limited issue and would enable the petitioner to raise all objections on substance as well as contents of the report.

6. At the stage where the assessment is not yet made, we do not find it appropriate to interference. With these observations, the petitions are disposed of.

[M.S. SANKLECHA, J.] **[AKIL KURESHI, J]**