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

WRIT PETITION NO. 3626 OF 2018
WITH
WRIT PETITION NOS. 3621 OF 2018, 3622 OF 2018,
3623 OF 2018, 3625 OF 2018 AND 3627 OF 2018

Gemini Engi-Fab Ltd. .. Petitioners
v/s.
Dy. Commissioner of Income Tax-12(2)(2),
Mumbai ..Respondent

Mr. S.C. Tiwari a/w Ms. Rutuja Pawar for the petitioners
Mr. Charanjeet Chanderpal a/w Mr. Sigmund Gracias a/w Ms. Pallavi Supekar for the respondent

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

DATED : 22nd DECEMBER, 2018.

P.C.

1. The petitioners have challenged notices issued under Section 153C of the Income Tax Act, 1961 ("the Act" for short). The main ground of challenge is that as per the satisfaction note, no incriminating material is at the disposal of the Assessing Officer on the basis of which such assessment can be made for the relevant years under consideration. Such an objection was raised by the petitioner according to his counsel. We do not have any such document on record readily available. In any case, this is an issue which should firstly be examined by the Assessing Officer, instead of this Court in a writ

petition undertaking such a fact finding inquiry.

2. Under the circumstances, we direct the Assessing Officer to decide this issue at the threshold. For such purpose, the petitioners shall file representations before the Assessing Officer on 24.12.2018. If so filed, the Assessing Officer shall examine the grievances raised by the petitioners before deciding whether or not to proceed with the assessments.

3. Petitions are disposed of accordingly. All contentions of both the sides are kept open.

4. Parties to act on a copy of this order duly authenticated by the Registry.

(M.S. SANKLECHA J.) **(AKIL KURESHI, J.)**