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

WRIT PETITION NO. 3107 OF 2019

Nareshkumar Choudhary, Karta ... Petitioner.
V/s.
The Income Tax Officer Ward 30-(2)(4)
& Ors. ... Respondents.

WITH
INTERIM APPLICATION NO. 01 OF 2020
IN
WRIT PETITION NO. 3107 OF 2019

Nareshkumar Choudhary, Karta ... Applicant.

In the matter of :

Nareshkumar Choudhary, Karta ... Petitioner.
V/s.
The Income Tax Officer Ward 30-(2)(4)
& Ors. ... Respondents.

Mr. Jas Sanghvi, Advocate i/by PDS Legal for the Petitioner/ Applicant.
Mr. Sham Walve, Advocate a/w. Mr. Pritish Chatterjee Advocate for the Respondents.

CORAM : UJJAL BHUYAN AND
MILIND N. JADHAV,JJ.

DATE : FEBRUARY 14, 2020.

PC :

1 Heard Mr. Sanghvi, learned counsel for the Petitioner and Mr. Sham Walve, learned standing counsel Revenue for the Respondents.

2 On 26.11.2019, following order was passed (Coram : M.S.Sanklecha & Nitin Jamdar, JJ) :

> "This Petition challenges a notice dated 31 March 2019 issued under Section 148 of the Income Tax Act, 1961 (Act). The impugned notice seeks to reopen the assessment for Assessment Year 2012-13. The regular assessment was completed by way of intimation under Section 143(1) of the Act.
>
> 2. The primary contention of the Petitioner is that the reasons furnished to the Petitioner are different from the reasons on which the On-Line approval was obtained from the Commissioner of Income Tax under Section 151 of the Act. This itself prima-facie indicated the fact that the impugned notice is without jurisdiction as the reasons which have been furnished to the Petitioner are different from the one on which approval was obtained of the Commissioner of Income Tax under Section 151 of the Act to issue reopening notice. There is merit in the contention of the Petitioner.
>
> 3. Mr. Walve, learned Counsel appearing for the Respondents seeks time to take instructions and file affidavit in reply, if necessary.
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> 4. At his request the Petition is adjourned to 27 January 2020."

3 Thereafter, the case was adjourned and it is listed today.

4 On perusal of the order dated 26.11.2019, it is seen that this court had taken a prima facie view that the impugned notice issued under section 148 of the Income Tax Act, 1961 was without jurisdiction.

5 Learned counsel for the Petitioner submits that though interim order was passed, somehow it is not reflected in the order dated 26.11.2019.

6 Shri Sham Walve, learned standing counsel fairly submits that indeed an interim order was passed on 26.11.2019.

7 If that be so, we make it clear that till the next date, there shall be stay of the impugned notice dated 31.03.2019 issued under section 148 of the Income Tax Act, 1961 and all consequential action pursuant thereto shall also remain stayed.

8 Respondents may file affidavit-in-reply by the next date.

9 Stand over to 20.03.2020.

10 In view of the above order in the writ petition itself, no further order is called for in Interim Application No. 01 of 2020 and the same is disposed of accordingly.

(MILIND N. JADHAV, J.) (UJJAL BHUYAN, J.)

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