IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.573 OF 2002

R. Meenakshi ….Petitioner
V/s.
The Commissioner of I-Tax Central-I …Respondent

Mr. Ramesh Ramamurthy with Mr. Saikumar Ramamurthy for Petitioner
Mr. Suresh Kumar for Respondents

CORAM : K.R. SHRIRAM &
AMIT B. BORKAR, JJ
DATED : 10th DECEMBER 2021

P.C. :

1 Heard Mr. Ramamurthy for petitioner and Mr. Suresh Kumar for respondent.

2 This petition is impugning an assessment order dated 22nd March 1999 for A.Y.-1996-1997.

3 In 1997, the Government of India introduced a Voluntary Disclosure of Income Scheme 1997 (VDIS). Petitioner took advantage of the scheme and filed a declaration on 31st December 1997 for A.Y-1992-1993, 1996-1997 and 1997-1998. Petitioner's declaration under the VDIS was accepted and a certificate dated 31st March 1998 was issued. Based on that, petitioner has already paid the tax, part of which was paid on 31st December 1997 and the balance on 25th March 1998.

4 The Assessing Officer, notwithstanding the issuance of certificate under VDIS for A.Y.-1996-1997 has gone ahead and issued this impugned assessment order dated 22nd March 1999 for A.Y.-1996-1997, which is covered under the VDIS declaration, on the ground that petitioner had been

issued a notice under Section 142(1) of the Income Tax Act 1961 (the Act) before the scheme came into force and, therefore, petitioner was not entitled to take the benefit of VDIS and proceeded to pass the assessment order. Infact, petitioner had filed an application under Section 264 of the Act, which was rejected and that order dated 29th March 2001 is also impugned in this petition.

5 Mr. Suresh Kumar submits that there is no error in the order impugned.

6 If according to respondent, petitioner was ineligible to make the declaration under the VDIS for A.Y.-1996-1997, such a declaration would have been rejected by the concerned authority at that time. The concerned authority having accepted the declaration and issued the certificate and petitioner having already paid the tax computed under the VDIS, in our view, it is not open to respondent in the manner they have proceeded to assess the petitioner for A.Y.-1996-1997 as per the orders impugned.

7 In the circumstances, petition is allowed in terms or prayer clause (a) which reads as under:-

> *"(a) That this Hon'ble Court may be pleased to issue of writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, order or direction under Article 226 of the Constitution of India calling for the record of the petitioner's case and after examining the legality and validity thereof, to quash and set aside the impugned order dated 29th March 2001 passed by Respondent no.1 under Section 264 of the Act."*

8 Petition disposed.

(AMIT B. BORKAR, J) **(K.R. SHRIRAM, J.)**

Meera Jadhav