IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2763 OF 2019

Vindo Bhagwan Wadhani ….Petitioner

V/s.

Deputy Commissioner of Income Tax
Circle-3, Thane & Ors. …Respondents

Mr. Devendra Jain for Petitioner
Mr. Sham V. Walve for Respondent-Revenue

CORAM : K.R. SHRIRAM &
AMIT B. BORKAR, JJ
DATED : 6th DECEMBER 2021

P.C. :

1 Paragraph 6 of the order dated 13th January 2020 reads as under:

> *"6. The cases arising under this jurisdiction would generally turn on the combination of facts of each case. It is not being argued before us that because of there was only an intimation under Section 143(1) of the Act, the jurisdictional requirement under Section 147 of the Act need not be present. We have perused the reasons in this case and the objections filed by the Petitioner giving explanation and creditworthiness of the Petitioner. The order passed by the Respondent No.1 – Assessing Officer disposing of the objections, do not show application of mind qua the objections raised by the Petitioner. Firstly there is a reference to fact that there was no scrutiny assessment, then the objection of the Petitioner on law regarding jurisdiction is commented on then it is stated that earlier no documents could be examined because it is the case of intimation under Section 143(1) of the Act, then the Assessing Officer reproduced the paragraphs regarding what is meant by "reasons to believe" and passed the order. In view of the fact that there is absolutely no application of mind whatsoever while disposing of the objections to the factual errors and factual aspects pointed out by the Petitioner, we find that arguable case is made out."*

2 We have once again perused the order disposing the objections and echo the observations as quoted above. In fact, we would add that the order lacks bonafides. Therefore, the order dated 26th September 2019 is

quashed and set aside. The matter is remanded for denovo consideration and it should be placed before an Assessing Officer, who was not the Assessing Officer, who passed the order dated 26th September 2019.

3 Accordingly, petition disposed. Respondents shall inform petitioner within two weeks about the link / communication for the personal hearing. Respondent no.1 may pass such orders as he deems fit but it should be a reasoned order dealing with all submissions of petitioner.

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