IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.3293 OF 2019
WITH
INTERIM APPLICATION NO.318 OF 2019

Rajendra Singh Karnawat ....Petitioner

V/s.

Assistant Commissioner of
Income Tax Circle 19(3) ...Respondent

None for Petitioner
Mr. Sham V. Walve for Respondent

CORAM : K.R. SHRIRAM &
AMIT B. BORKAR, JJ
DATED : 15th NOVEMBER 2021

P.C. :

1 In the absence of petitioner's counsel, we have considered the petition and the documents annexed thereto with the assistance of Mr. Walve appearing for respondent.

2 Petitioner has approached this court impugning a notice dated 28th March 2019 issued under Section 148 of the Income Tax Act 1961 (the Act) calling upon petitioner to show cause as to why petitioner's income should not be re-assessed for the A.Y.-2012-2013 since the Assessing Officer had reasons to believe that petitioner's income chargeable to tax for A.Y.-2012-2013 has escaped the assessment within the meaning of Section 148 of the Act. In response to the notice, petitioner had filed objections. These objections have been rejected by an order dated 21st September 2019, copy whereof is at Exhibit F to the petition. Even this order has been impugned in the petition.

3 Petitioner had filed return of income for A.Y.-2012-2013 on 21st

September 2012 declaring total income of Rs.33,31,497/- which was, on 6th May 2013, processed under Section 143(1) of the Act.

4 Subsequently, Assessing Officer received information from ACIT, Central Circle-3, Jaipur vide letter dated 8th March 2019 wherein it is stated search and seizure action under Section 132 of the Act was carried out in the case of one Ramesh Manihar Group on 7th January 2016 and it has come to light that Ramesh Manihar Group was indulging in cash loan financing on a large scale. During the search and seizure carried out in Ramesh Manihar Group, it is also found that petitioner had advanced unaccounted loans in cash totaling to Rs.13,20,00,000/- and this unaccounted loan was not offered for tax. It is also been found that petitioner has also earned unaccounted interest thereon, which also requires to be taxed. This the basis of forming reason to believe that there has been escapement of income.

5 Indisputably, the assessment is being opened four years after assessment year and, therefore, the proviso of Section 147 of the Act will apply. We are satisfied with the reasons to believe to form an opinion that there has been escapement of income and hence we do not wish to interfere.

6 Petition dismissed.

7 We shall, however, clarify that we have not expressed any opinion on the merits of the case. This order is without prejudice to petitioner's rights and contentions which they are at liberty to raise before the concerned authority.

8 In view of the dismissal of the petition, interim application no.318 of 2019 does not survive and accordingly dismissed.

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