Urmila Ingale

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

WRIT PETITION NO. 3368 OF 2019

Wavy Construction LLP ..Petitioner
vs.
Asst. Commissioner of Income Tax
Circle 22(3) and ors. ..Respondents

Mr. Jehangir D.Mistri, Senior Advocate i/b Mr.B.V.Jhaveri, for Petitioner.
Mr.Sham V. Walve, for Respondents No. 1 & 2 – Revenue.

CORAM : K.R.SHRIRAM, J.
M. S. KARNIK, J.

DATE: SEPTEMBER 21, 2021

P.C. :

1. Mr.Walve states that an affidavit of one Biju Thomas, Assistant Commissioner of Income Tax sworn on September 17, 2021 has been filed in compliance with the order dated September 14, 2021. We have considered the affidavit and we accept the explanation given therein.

2. The assessment order dated May 19, 2021 is hereby quashed and set aside. Naturally, consequential notices, if any, are

also quashed and set aside.

3. Keeping open the rights and contentions of the parties, we pass the following order with the concurrence of the counsel.

(A) The impugned order dated November 25, 2019 (Exhibit 'P' to the petition) disposing the objection raised against reopening of assessment under Section 147 of the Income Tax Act, 1961 (the 'Act') is quashed and set aside.

(B) The matter is remanded to the concerned authority to reconsider the objection dated May 6, 2019 and pass further orders. Should petitioner wish to file any further submissions in response to the letter dated April 23, 2019 giving reasons for reopening assessment for AY 2012-13, petitioner may do so within two weeks from today. No extension will be granted.

(C) Should petitioner seek any clarification regarding the figures which are mentioned in the reasons for reopening, the concerned authority shall provide the same within two weeks of receiving the communication from petitioner.

(D) The concerned authority may further dispose of the objection to the reopening of assessment after giving a personal hearing to the petitioner as per Rules prescribed.

4. We clarify that we have not made any observations on the merits of the case.

5. Mr.Walve states that in case of reopening upto the stage of disposal of objection, it remains with the jurisdictional Assessing Officer, and once it is disposed by the jurisdictional Assessing Officer, the matter goes to Faceless Scheme for further assessment. Statement accepted.

6. Writ Petition disposed.

(M.S. KARNIK, J.) **(K.R.SHRIRAM, J.)**