IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3687 OF 2022

Satyanarayan s/o. Ramkishan Dodiya,
Age 70 years, Occu. Business,
R/o. M/s. Shriram Jewellers,
Keli Bazar, Opp. Vasant Bhavan,
Gulmandi, Aurangabad,
Tq. & Dist. Aurangabad.
PAN No. AGTPD7049R .. Petitioner

Versus

1. The Union of India
   Through its Secretary,
   Ministry of Finance,
   New Delhi

2. The Principal Commissioner
   Income Tax, Nashik

3. The Income Tax Officer,
   Ward-1(1), Aurangabad,
   Tq. & Dist. Aurangabad.

4. Central Board of Direct Taxes,
   New Delhi .. Respondents

...

Mr. Raviraj R. Chandak, Advocate for Petitioner
Mr. Alok Sharma, Advocate for Respondents no. 2 to 4

...

AND

WRIT PETITION NO. 3724 OF 2022

Ramnivas s/o. Satyanarayan Dodiya,
Age 45 years, Occu. Business,
R/o. Plot No. 53, “Gangotri”,
Surana Nagar, Behind Hotel Yashodeep,
Jalna Road, Aurangabad,
Tq. & Dist. Aurangabad.
PAN No. ALHPD8334J .. Petitioner

Versus

1. The Union of India
Through its Secretary,
Ministry of Finance,
New Delhi

2. The Principal Commissioner
Income Tax, Nashik

3. The Income Tax Officer,
Ward-1(1), Aurangabad,
Tq. & Dist. Aurangabad.

4. Central Board of Direct Taxes,
New Delhi .. Respondents

...

Mr. Raviraj R. Chandak, Advocate for Petitioner
Mr. Alok Sharma, Advocate for Respondents no. 2 to 4

...

CORAM : R. D. DHANUKA &
S. G. MEHARE, JJ.
DATE : 21-03-2022

ORAL JUDGMENT :-
(PER - R. D. DHANUKA, J.)

1. Rule. Rule is made returnable forthwith.

2. Mr. Sharma, learned Advocate for respondents No. 2 to 4 waives notice.

3. By these petitions filed under Article 226 of the Constitution of India, the Assessees seek direction to quash and set aside the impugned notice dated 30.03.2021 issued by respondent no. 3 under Section 148 of the Income Tax Act, 1961. Writ petitions have been filed in the month of March – 2022.

4. The reasons are already furnished in both these matters to the petitioners by the respondent-authority. The case of both the petitioners is that the entire action initiated by the respondent under section 148 of the Income Tax Act, 1961 is without jurisdiction. Action if can be taken by respondent, according to the petitioner, can be under section 153C of the Act, 1961 and not under Section 147 of the Act.

5. It is not in dispute that the petitioners have filed Income Tax Returns for the year 2013-2014. Issue of jurisdiction can also be raised by the petitioners before the Assessing authority while raising objections to the reasons furnished to the petitioners.

6. Learned Advocate for the petitioners agrees that the petitioners would file their objections before respondent No. 3 authority within one week from today including on the issue of jurisdiction, if any. The respondent No.3 to decide the said objections within one week thereafter. If any order is passed, the same shall be communicated to the petitioners within one week from the date of passing such order.

7. No coercive action shall be taken against the petitioners for a period of four weeks from the date of communication of the order.

8. It is made clear that this Court has not expressed any views on merits of the matters.

9. Both these Writ Petitions are disposed of in aforesaid terms. The contentions of both parties are kept open.

10. Rule is accordingly made absolute in above terms. No order as to costs. Parties to act upon authenticated copy of this order.

(S. G. MEHARE)
JUDGE

(R. D. DHANUKA)
JUDGE

rrd