IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3081 OF 2022

M/s Sai Enterprises Thr. Partner Jayesh Malde ….Petitioner

V/s.

Union of India Thr. Secretary Ministry of Finance Income Tax Dept. & ors. …Respondents

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Dr. Birendra Saraf, Senior Advocate a/w Mr. Khusal Amin and Mr. Jayesh Joshi for Petitioner
Mr. Ashok Kotangle a/w Mr. Vivek Sharma i/b Mr. Vipul Bajpayee for Respondents

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CORAM : K.R. SHRIRAM &
N.R. BORKAR, JJ
DATED : 17th MARCH 2022

P.C. :

1 Dr. Saraf states that petitioner is impugning a notice dated 31st March 2021 issued under Section 148 of the Income Tax Act 1961 (the said Act) on various grounds. Dr. Saraf states that the notice issued is not even digitally signed and, therefore, should not be even accepted as valid notice. Dr. Saraf further states that the reasons for reopening has blanks and expresses surprise as to how the Principal Commissioner of Income Tax even granted an approval under Section 151 of the Act. Dr. Saraf states it is clear case of non application of mind.

2 We, however, find that petitioner has not filed its objections to the notice, though returns have been filed pursuant to the notice.

3 Petitioner is directed to file its objections within two weeks from today and the objections shall be heard and disposed within three weeks

thereafter. Before disposing the objections, the Jurisdictional Assessing Officer (JAO) shall grant a personal hearing and the notice of personal hearing shall be communication at least 7 working days in advance. If Jurisdictional Assessing Officer wishes to rely on any judgments or order passed by any Court or Tribunal, he shall provide a list thereof to petitioner alongwith the notice for personal hearing and give them an opportunity to deal with those judgments or distinguish those judgments during the personal hearing and those submissions of petitioner shall also be dealt with in the assessment order.

4 Time from the date this petition was lodged, i.e., 15th March 2022 till today, is excluded for the purpose of completion of assessment proceedings.

5 All rights and contentions of the parties are kept open. Naturally, until the order on objections is passed and for four weeks thereafter, respondents shall not pass the assessment order.

6 Petition accordingly stands disposed.

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

(N. R. BORKAR, J.) **(K.R. SHRIRAM, J.)**