IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5099 OF 2022

Renu S. Jajodia … Petitioner
V/s.
The Income Tax Officer
Ward-3(2), Thane and ors. … Respondents

Mr. Satish Mody and Ms Aasifa Khan for the Petitioner.
Mr. Suresh Kumar for the Respondent.

CORAM : K.R. SHRIRAM &
N.R. BORKAR, JJ.
DATE : APRIL 25, 2022.

P.C.

1] Heard Mr. Mody and also considered petition along with documents annexed thereto. With the consent of Mr. Suresh Kumar, we decided to dispose petition at this stage itself.

2] We find that petitioner has filed objections to the notice issued under section 148 of the Income Tax Act, 1961 (the Act). Copy of the notice which is dated 29.03.2021 is annexed to the petition. Also annexed to the petition is a copy of assessment order dated 26.03.2022 which is also impugned in this petition.

3] We find that the objections to reopening filed by the petitioner has not been dealt with. Mr. Mody states that even a personal hearing has not been granted to petitioner. We also find in the impugned assessment order dated 26.03.2022, the assessment is completed by adding a sum of Rs.69,33,750 under section 68 of the Act. Added to that is return of income of Rs.12,46,600. That would make a total of Rs.81,80,350. But in the computation sheet annexed to the petition, the total income after adjustment is shown to be Rs.1,52,74,020. Therefore, in our view, it will be appropriate to quash and set aside the assessment order and direct the matter to be re-considered by the Jurisdictional Assessing Officer (J.A.O), who shall dispose petitioner's objections to reopening on or before 30.06.2022, after giving a personal hearing to petitioner. Consequently, demand notice dated 26.03.2022 and penalty initiated under section 274 read with section 271(1)(c) of the Act are also quashed and set aside.

4] The notice for personal hearing shall be issued atleast seven working days in advance. If the J.A.O. wishes to rely on any order or judgment of any High Court or Tribunal, then a list thereof shall be provided to petitioner alongwith the notice of personal hearing so that petitioner may be able to deal with/distinguish those orders/ judgments.

5] The J.A.O. shall, we repeat, shall deal with every objection raised by petitioner and pass the order on objections dealing with every point raised by petitioner.

6] The time from the date of lodging this petition, i.e., 21.04.2022 till disposal and the time granted for disposal of objections is to be excluded while computing the period of limitation for completion of the assessment proceeding.

7] However, we clarify that we have not expressed any opinion on merits of the matter.

8] Petition disposed accordingly.

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