IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5906 OF 2022 (501)

Pride Purple Properties
through Shravan D. Agarwal … Petitioner
V/s.
The Assistant Commissioner of
Income Tax Central Circle 1(1), Pune and ors. … Respondents

AND
WRIT PETITION NO. 5902 OF 2022 (502)

Praful Shantilal Kothari HUF
through Karta Praful S. Kothari … Petitioner
V/s.
The Assistant Commissioner of
Income Tax Central Circle 7 Pune and ors. … Respondents

AND
WRIT PETITION NO. 5903 OF 2022 (503)

Kuldeep Vyas … Petitioner
V/s.
The Income Tax Officer
Ward 9 (3), Pune and ors. … Respondents

AND
WRIT PETITION NO. 5905 OF 2022 (504)

Bhagyalaxmi Dairy Farms
Private Limited through its Director … Petitioner
V/s.
The Income Tax Officer
Ward 1(1), Pune and ors. … Respondents

Ms Vidhi K. Punamiya a/w. Mr. Sanket S. Bora i/b SPCM Legal for the Petitioner in all petitions.
Mr. Suresh Kumar for Respondent.

CORAM : K.R. SHRIRAM &
N.R. BORKAR, JJ.
DATE : MAY 06, 2022.

P.C.

1] Not on board. Upon mentioning, taken on production board.

2] Ms Punamiya states that these matters will be covered by the judgment of Apex Court in ***Union of India & Ors. vs. Ashish Agarwal***[1]. Mr. Suresh Kumar also concurs.

3] The Hon'ble Apex Court in the judgment of *Ashish Agarwal (supra)* partially set aside the order and judgment issued by the Hon'ble High Court Judicature at Allahabad in Writ Tax No.524 of 2021 and other Writ Tax Petitions. The order also covers the judgments passed by various other High Courts including this court in ***Tata Communications Transformation Services Limited V/s. Assistant Commissioner of Income Tax 14(1) & Ors.***[2]

4] The Hon'ble Apex Court has in paragraph no.10 passed the following directions :

> *10. In view of the above and for the reasons stated above, the present Appeals are ALLOWED IN PART. The impugned common judgments and orders passed by the High Court of Judicature at Allahabad in W.T. No. 524/2021 and other allied tax appeals/ petitions, is/are hereby modified and substituted as under:*
> *(i) The impugned section 148 notices issued to the respective assessees which were issued under unamended section 148 of the IT Act, which were the subject matter of writ petitions before the various*

1 Civil Appeal No. 3005/2022 dated 4th May, 2022.
2. Writ Petition No.1334 of 2021 dated 29th March, 2022.

respective High Courts shall be deemed to have been issued under section 148A of the IT Act as substituted by the Finance Act, 2021 and construed or treated to be show-cause notices in terms of section 148A(b). The assessing officer shall, within thirty days from today provide to the respective assessees information and material relied upon by the Revenue, so that the assessees can reply to the show-cause notices within two weeks thereafter;

(ii) The requirement of conducting any enquiry, if required, with the prior approval of specified authority under section 148A(a) is hereby dispensed with as a one-time measure vis-à-vis those notices which have been issued under section 148 of the unamended Act from 01.04.2021 till date, including those which have been quashed by the High Courts.

Even otherwise as observed hereinabove holding any enquiry with the prior approval of specified authority is not mandatory but it is for the concerned Assessing Officers to hold any enquiry, if required;

(iii) The assessing officers shall thereafter pass orders in terms of section 148A(d) in respect of each of the concerned assessees; Thereafter after following the procedure as required under section 148A may issue notice under section 148 (as substituted);

(iv) All defences which may be available to the assesses including those available under section 149 of the IT Act and all rights and contentions which may be available to the concerned assessees and Revenue under the Finance Act, 2021 and in law shall continue to be available."

5] In view of the above all petitions are disposed.

6] Certainly, since all rights and contentions of the parties are kept open, the assessees may take such steps if they are aggrieved by any order passed by the Assessing Officer.

7] In view of the above, wherever the assessment order has been passed those assessment orders will stand quashed and set aside. So also the consequential orders/notices.

8] Revenue may restart the process as directed by the Hon'ble Apex Court.

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