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

WRIT PETITION NO. 364 OF 2022

Supermax Personal Care Pvt. Ltd. ....Petitioner

V/s.

Deputy Commissioner of Income Tax
Circle 3(4) and Ors. ...Respondents

Mr. Nishant Thakkar a/w Mr. Hiten Chande i/b Lumiere Law Partners for Petitioner.
Mr. Suresh Kumar for Respondents.

CORAM : K.R. SHRIRAM &
N. J. JAMADAR, JJ.
DATED : 23rd FEBRUARY, 2022

P.C. :

1. Petitioner received a notice dated 30th March, 2021 under Section 148 of the Income Tax Act, 1961 (the Act) stating that there are reasons to believe that petitioner's income chargeable to tax for A.Y. 2014-15 has escaped assessment within the meaning of Section 147 of the Act.

2. Petitioner was provided reasons recorded for re-opening which we have considered with the assistance of the counsel.

3. This was a case where the assessee had filed return on 30th November, 2014 for A.Y. 2014-15 and after scrutiny assessment for A.Y. 2014-15 was completed on 31st October, 2018. According to the Jurisdictional Assessing Officer (JAO) who has recorded the reasons for re-

opening, petitioner had in the Form 3CD Report disclosed that it had paid an amount of Rs.4,47,83,700/- received as employee contribution after the due date and hence was not allowable as deduction. As it has not been disallowed in the assessment, income to the extent of Rs.4,47,83,700/- has escaped assessment. In the order rejecting petitioner’s objections, respondent admit that the information had been reported by petitioner in Form 3CD but was not considered during the earlier assessment proceedings. Therefore, admittedly there has not been non-disclosure. As per the notice, re-opening is proposed after the expiry of four years from the end of the relevant assessment year and since the assessment under Section 143(3) of the Act has been completed, there is a bar on re-opening unless respondent is able to show that there was failure on the part of petitioner to truly and fully disclose all material facts required for the assessment. Since in the reasons for re-opening as well as in the order disposing the objections, it is admitted that information had been reported by petitioner in the Form 3CD, there is no question of non-disclosure. Therefore, re-opening itself is barred.

4. Accordingly, petition is allowed in terms of prayer clause – (a) which reads as under :

> *(a) that this Hon’ble Court be pleased to issue a Writ of Certiorari or a writ in the nature of Certiorari or any other appropriate writ, order or direction under Article 226 and/or Article 227 of the Constitution of India calling for the records of the Petitioner’s case and after examining the legality and validity thereof quash and set aside the Impugned Notice*

dated 30 March 2021 under section 148 of the Act (Exhibit "I"), the Impugned Order dated 3 December 2021 (Exhibit "P") and, consequential notice dated 29 July 2021 issued under section 143(2) (Exhibit "M") and consequential notices dated 3 December 2021 (Exhibit "Q") and 17 December 2021 issued under section 142(1) of the Act (Exhibit "S").

5. Petition disposed.

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