Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 376 OF 2022

Jaipur Jewels Global Limited (Successor in interest of Jaiput Jewel partnership firm) ...Petitioner

Versus

Assistant Commissioner of Income Tax, Circle 19(1) & ors. ...Respondents

WITH
WRIT PETITION NO. 378 OF 2022
WITH
WRIT PETITION NO. 382 OF 2022
WITH
WRIT PETITION NO. 389 OF 2022

Mr. Devendra Jain, for the Petitioner.
Mr. Akhileshwar Sharma, for the Respondent – Revenue.
Mr. Madhur Agrawal, *Amicus Curiae,* present.

CORAM: K. R. SHRIRAM &
N. J. JAMADAR, JJ

DATED: 22nd FEBRUARY, 2022

COMMON ORDER:

1. Mr. Sharma has filed an affidavit-in-reply of one Praveen Kumar affirmed on 21st February, 2022.

2. In the affidavit, it is stated that petitioner's letter dated 3rd March, 2017 was filed manually in the *tapal* of the Charge Circle 19.2 and when the merger of Charge Circle 19.2 with 19.1 happened manual *tapal* was not migrated.

3. Mr. Jain states that objections have been filed to the notice issued under Section 148 in which the issue as to notice having been issued to a non-existing entity also has been raised. The objections have not been disposed in view of the order dated 25th January, 2022.

4. We dispose these petitions without any observation on merits and the Assessing Officer is directed to dispose the objections in accordance with law.

5. The matter is remanded to the concerned Assessing Officer, who shall consider the submissions made by petitioner and after granting a personal hearing to petitioner pass order disposing the objections within a period of six weeks from the date this order is uploaded. The notice of personal hearing shall be given at least seven working days in advance.

If the Assessing Officer is going to rely on any judgments/orders of any Court or Tribunal to pass the order disposing the objection, he shall provide a list thereof to petitioner along with the notice of personal hearing so that petitioner's representative may deal with or distinguish it during the personal hearing. The Assessing Officer shall thereafter pass detailed and reasoned order dealing with every point of objections raised by petitioner.

6. The time from the date of lodging this petition, i.e., from

13th January 2022 till today, shall be excluded. Once the order on objection is passed, the final assessment order shall be passed after 30 days in accordance with the judgment in the case of ***Asian Paints Ltd. vs. Deputy Commissioner of Income-tax***[1]

7. Petitions disposed.

8. We had appointed Mr. Agrawal as an *Amicus Curiae* by the order dated 25th January, 2022. Mr. Agrawal submitted to this Court a note along with various judgments and explained to this Court the effect of conversion of a partnership firm into a company. Though we have disposed off the petitions as above, we hereby acknowledge and record our appreciation to the assistance rendered by Mr. Agrawal.

[N. J. JAMADAR, J.] **[K. R. SHRIRAM, J.]**

1[2008] 296 ITR 90 (Bombay).