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

WRIT PETITION NO. 572 OF 2022

Rajasthan Udyog and Tools Private Limited ....Petitioner

V/s.

Assistant Commissioner of Income Tax Circle 3(1)(1) and Ors. ...Respondents

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Mr. Mandar M. Vaidya for Petitioner.
Mr. Suresh Kumar for Respondents.

CORAM : K.R. SHRIRAM &
N. J. JAMADAR, JJ.
DATED : 3rd MARCH, 2022

P.C. :

1. Petitioner is impugning the notice dated 31st March, 2021 issued under Section 148 of the Income Tax Act, 1961 (the Act) for A.Y. 2014-15 as well as the order on objections dated 23rd December, 2021.

2. At the outset we have to note that in the reasons recorded for re-opening the Assessing Officer has displayed total non application of mind and has proceeded on incorrect basis. The order rejecting objections also has been passed without considering any of the submissions and without applying his mind. On these grounds alone the notice as well as the order on objections should be quashed and set aside.

3. The reasons recorded for re-opening in paragraph no.3 and 4 states as under :

xxxxx

xxxxx

3. As per information summary available in Insight Portal, the following information relating to A.Y. 2017-18 pertains to the assessee company.

Sl.	*Information Source*	*Information F.Y.*	*Information Type*	*Information Value (in Rs.)*	*Information Date*
1	*Sub-Registrar Office, Khalapur*	*2013-14*	*Purchase of immovable property*	*24,25,00,000*	*23.02.2021*

4. In this case, information has been received from the DIT(I&CI), Rajasthan vide letter dated 29.11.2019, stating that during the year relevant to A.Y. 2014-15, the assessee has purchased immovable property at Jodhpur, being Plot No.13, Heavy Industrial Area, Jodhpur, Rajasthan, for a consideration of Rs.21,50,00,000/- and Rs.2,75,00,000/- totalling to Rs.24,25,00,000/-.

xxxxx

4. The fact is petitioner has sold the property and there has been no purchase as could be even seen from paragraph no.9 of the Assessment Order dated 30th December, 2016. It is expressly provided in the Assessment Order that petitioner has sold land on Plot No.13 at Heavy Industrial Area, Jodhpur and not purchased as mentioned in the reasons recorded for re-opening. Even in paragraph no.3 information mentioned is purchase of immovable property when there has been sale. Therefore, the entire basis for the Assessment Officer’s opinion that there has been escapement of income from assessment has to collapse. Moreover, in the reasons for re-

opening in paragraph no.3 he says information date is 23rd February, 2021 relating to A.Y. 2017-18 and in paragraph no.4 he says, he has received information on 29th November, 2019 relating to A.Y. 2014-15.

5. Therefore, we are setting aside the notice dated 31st March, 2021 and the order on objections dated 23rd December, 2021 and allowing the petition in terms of prayer clause – (a) which reads as under :

> *(a) that this Hon'ble Court may be pleased to issue a writ of certiorari or writ in the nature of certiorari or any other appropriate writ, direction or order under Article 226 of the Constitution of India calling for the records of the case leading to the issuance of the notice under section 148 of the Income Tax Act, 1961 dated 31st March, 2021, being Ex-K hereto and the Approval granted to the reasons recorded being Ex-M hereto and after going through the same and examining the question of legality thereof to quash, cancel and set aside the impugned notice dated 31st March, 2021, the Approval granted to the reasons recorded being Ex-M hereto and the order rejecting the Petitioner's objections dated 23rd December, 2021, being Ex-Q hereto.*

6. Petition disposed.

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