IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 705 OF 2022

JMP Securities Pvt Ltd. ....Petitioner

V/s.

Deputy Commissioner of Income Tax
Circle 4(3)(1) & Anr ...Respondents

Ms Neha Paranjpe for Petitioner
Mr. Suresh Kumar for Respondents

CORAM : K.R. SHRIRAM &
N.R. BORKAR, JJ
DATED : 20th APRIL 2022

P.C. :

1 Petitioner has impugned a notice dated 31st March 2021 but the date of signature is not clear though, it looks like some date in April 2021. Mr. Suresh Kumar states that he has received an email from DCIT-4(3)(1), Mumbai, who is the same officer, who signed the notice impugned in the petition stating that the notice was signed on 8th April 2021. The email is taken on record and marked “X” for identification and the same for ease of reference is scanned and reproduced hereinbelow.

4/20/22, 12:23 PM Yahoo Mail - Writ Petition No.705 of 2022 ...

① S. Kumar /20/4

Writ Petition No.705 of 2022 in the case of JMP Securities Pvt Ltd. for AY 2015-16

From: mumbai.dcit4.3.1 (mumbai.dcit4.3.1@incometax.gov.in)
To: skthakur2@yahoo.com
Cc: mumbai.pcit4@incometax.gov.in; mumbai.addlcit4.3@incometax.gov.in
Date: Tuesday, 19 April, 2022, 03:41 pm IST

20/4/2022

Sir,

As per the order dated 18.4.2022 the Writ Petition in the case of JMP Securities Pvt Ltd. for the AY. 2015-16 is stand over to 20.4.2022.

Parawise comments in this case are still not finalised, the Hon'ble High Court may please be requested for short adjournment and also you are requested to place before Hon'ble High Court factuality of the issue of notice u/s. 148.

In this regard it is to state that the notice u/s. 148 of the I.T.Act, 1961 was generated on 31.03.2021 after recording reasons for reopening and obtaining necessary approval u/s. 151 on 31.03.2021, however this is true that the notice was digitally signed and served to assessee on 08.04.2021. You are requested to place this fact before the Hon'ble High Court.

With Regards,
(Surendra Singh Charan)
DCIT-4(3)(1), Mumbai.

2 In this case the notice issued under Section 148 of the Income Tax Act, 1961 (the Act) is issued after 31st March 2021 but the procedure followed is the old procedure which came to be replaced by the Finance Act, 2021 with effect from 1st April, 2021.

3 Ms Paranjpe states that she does not have any instructions of any assessment order having been communicated to petitioner.

Statement accepted.

Even if the assessment order is passed, still it will be *non-est* as the notice issued under Section 148 of the Act itself is being set aside.

4 We have already held in ***Tata Communications Transformation Services Limited V/s. Assistant Commissioner of Income Tax 14(1) & Ors.***[1] that such notices are bad in law and have to be quashed. Accordingly, notice impugned in this petition is hereby quashed and set aside.

5 Petition disposed accordingly.

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

1. Writ Petition No.1334 of 2021 dated 29th March, 2022.