IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1387 OF 2015

Piramal Healthcare Ltd. ....Petitioner

V/s.

Dy. Commissioner of Income Tax
Circle 7(3)(1), Mumbai & Ors ...Respondents

Mr. Madhur Agrawal i/b Mr. Atul K Jasani for Petitioner
Mr. Suresh Kumar for Respondents

CORAM : K.R. SHRIRAM &
N.R. BORKAR, JJ
DATED : 8th APRIL 2022

P.C. :

1 On 30th July 2015, when the petition was heard for admission, this court was pleased to pass the following order:

> *"Heard. Rule.*
>
> *2 This petition challenges the reopening notice dated 21 January 2014 issued under Section 148 of the Income Tax Act, 1961 ('Act') seeking to reopen the Petitioner's assessment for Assessment year 20072008. The reasons insupport of the reopening notice indicate that the basis is the excess claim of benefit under Section 80IC in respect of its Baddi Unit, in asmuch as the expenses towards the Baddi unit have not been properly allocated for the purpose of claiming benefit under Section 80IC. Prima facie it appears to us that during the regular assessment proceedings leading to the order dated 18 December 2009, specific queries were raised with regard to allocation of expenditure to the Baddi unit and the Petitioner had responded with figures and particulars to the queries. The order disposing of objections does not deal with the aforesaid objection of change of opinion.*
>
> *In view of the above, interim relief in terms of prayer clause (d)."*

2 Having considered the petition and documents annexed thereto and the affidavit in reply with the assistance of counsel,we are in agreement

with the observations made by this court in its order dated 30th July 2015.

3 The excess claim of benefit under Section 80IC of the Income Tax Act 1961 in respect of Baddi Unit was a subject of consideration during the assessment proceedings and the reopening is based purely on change of opinion.

4 In the circumstances, we allow the petition in terms of prayer clause (a), which reads as under:

> *(a) Issue of certiorari or a writ in the nature of certiorari or any other appropriate writ, order or direction under Article 226 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 notice dated 21st January 2014 (Exhibit D) issued by Respondent no.1 purportedly under Section 148 of the Act seeking to reopen the petitioner's assessment for the assessment year 2007-2008.*

5 Petition disposed.

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