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

WRIT PETITION NO. 3051 of 2022

Mayures Grani Marmo Pvt. Ltd. ... Petitioner

Versus

1. The Deputy Commissioner of Income Tax
Circle -4(3)(1), Mumbai & 2 Ors. ...Respondents

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Mr.Pankaj Toprani i/b PRH Juris Consults, Advocate for petitioner.

Mr.Suresh Kumar, Advocate for respondents.

CORAM : DHIRAJ SINGH THAKUR &
VALMIKI SA MENEZES, JJ.

DATE : 5th DECEMBER , 2022.

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1. The petitioner challenges the notice under section 148 of the Income Tax Act, 1961 ('the Act') dated 7th April 2022 relevant to assessment year 2018-19 as also the order dated 7th April 2022 passed under section 148A(d) of the Act, *inter-alia* on the ground that the reassessment proceedings are sought to be initiated based upon the information obtained from the Directorate of Revenue Intelligence, Zonal Unit, Ahmedabad ('DRI').

2. It is stated that the Assessing Officer, in regard to the assessment years 2016-17 and 2017-18, had dropped the reassessment proceedings by passing detailed orders under section 148A(d) dated 31st January 2022 and 7th April 2022, respectively, whereby the Assessing Officer held that in view of quashing of the show cause notice issued by the DRI, by the Gujarat High Court, the proceedings under section 148 were unsustainable.

3. Counsel for the petitioner states that the same principle shall also hold good for the assessment year in question, i.e., 2018-19 and a different view could not have been taken. It is, however, pointed out that the view expressed by the Assessing Officer in its order passed under section 148A(d) for the assessment years 2016-17 and 2017-18 has been expressed later than the order under section 148A(d) in the present case.

4. Be that as it may, we are of the opinion that since the Assessing Officer had already taken a view for the relevant assessment years, i.e., 2016-17 and 2017-18 dropping the proceedings for reassessment, the issue needs to be

reconsidered by the Assessing Officer.

5. We, therefore, set aside the notice and the order impugned and remand the matter back to the jurisdictional Assessing Officer to take a view considering the impact of the orders relevant to the assessment years 2016-17 and 2017-18. All other contentions are kept open. Necessary orders be passed within six weeks from today.

6. The Writ Petition is disposed of accordingly.

[VALMIKI SA MENEZES, J.] **[DHIRAJ SINGH THAKUR, J.]**