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

WRIT PETITION NO.496 OF 2014

Indu Oil and Soap Company (Bhandup) ...Petitioner
vs.
Assistant Commissioner of Income Tax
Central Circle- 10, Mumbai ...Respondent

Mr. Jitendra Jain a/w. Mr. Viraj Bhate i/b. PDS Legal, for the Petitioner.
Mr. Arvind Pinto, for the Respondent

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

DATE : FEBRUARY 18, 2022

P.C.:

. In the reasons recorded for issuance of notice under section 148 of the Income Tax Act, 1961, Respondent No. 1 has observed that this Court in **CIT vs. Vandana Properties**[1] has not been accepted by the Revenue and further Appeal has been preferred wherein decision is yet to be delivered. Petitioner's objections have also been rejected by an order dated 12th June, 2013 which is also impugned in this Petition.

2. Mr. Jain states that **Vandana Properties** (supra) has been decided subsequently by the Apex Court which upheld the conclusions arrived at by this Court. Therefore, we set aside the

1 [2012] 76 DTR (Bom) 363

order dated 12th June, 2013 impugned in this Petition and remand the matter for *denovo* consideration.

3. Petitioner is permitted to make further submissions objecting to the notice dated 13th August, 2012 issued under section 148 of the Act. These further submission along with original submissions made will be reconsidered by the concerned authority who shall dispose of the objections in accordance with law within eight weeks from the date this order is uploaded.

4. The concerned authority shall also give a personal hearing to Petitioner and notice of such hearing shall be given to Petitioner seven days in advance. If the authority is going to rely on any order or judgment other than those referred in the impugned order dated 12th June, 2013, a list thereof shall also be provided along with notice for personal hearing, so that Petitioner is able to deal with/ distinguish them during the course of personal hearing. Order on objection shall be a detailed order dealing with all the submissions made and giving reasons for the conclusion arrived at.

5. The concerned authority shall also consider judgment of the Apex Court in the case of **Union of India and Others vs. Kamlakshi**

Finance Corporation Limited[2] so that in future a stand is not taken that, order of High Court is not acceptable to the Department and hence the Department is not implementing the decision of the High Court or any appellate authority. It is an objectionable phrase and unless it's operation has been suspended by a competent Court, the authority has to unreservedly follow the order of the High Court / higher authorities.

6. Petition disposed.

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

2 1992 Supp (1) SCC 443