IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.3579 OF 2021

S. H. Kelkar and Company Limited … Petitioner
Vs.
Additional /Joint /Deputy /Assistant Commissioner of Income Tax / Income-tax Officer, National Faceless Assessment Centre and others … Respondents

Ms. J. D. Mistri, Senior Advocate a/w. Mr. Harsh Kothari i/b. Mr. Atul K. Jasani for Petitioner.

Mr. Sham V. Walve for Respondents-Revenue.

CORAM : K. R. SHRIRAM &
R. N. LADDHA, JJ.

DATE : JANUARY 14, 2022

<u>P.C.</u> :-

1. After the petition was considered with the assistance of Shri. Mistri and Shri. Walve, Shri. Walve in fairness submitted that petitioners are justified in alleging that respondent No.1 has exceeded his jurisdiction in passing the impugned order and also issuing the impugned notices. Shri. Walve suggests that prayer clause (a) be granted and the matter be remanded to respondent No.1 with a direction to restrict his scope only to the issue which was under consideration in the show cause notice dated 21st January, 2020 issued under Section 263 of the Income Tax Act, 1961, copy whereof is at exhibit-B to the petition.

2. In view of the above, the petition is disposed in terms of prayer clause (a) which reads as under:-

> "(a) This Honourable Court may be pleased to issue a Writ 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 so far as they relate to the issue of the impugned notices dates 7th September 2021, 10th September 2021 and 15th

> September 2021 issued by Respondent No.1 (being Exhibit E, F & G hereto) and the impugned notice proposing variation to income along with the impugned draft assessment order (Exhibit J & K) and after going through and examining the question of the validity, propriety and legality thereof, be pleased to quash the impugned notice (Exhibits E, F & G) and the impugned notice proposing variation to income along with the impugned draft assessment order (Exhibit J & K) insofar as they go beyond the scope of directions given under the order passed under section 263 of the Act."

3. Respondent No.1 is directed to strictly comply with the directions contained in the order passed under Section 263 of the Act on 24th February, 2020. By way of clarification, he is directed to restrict the assessment to the points mentioned in paragraphs 2 and 3 of the show cause notice dated 21st January, 2020 issued under Section 263 of the Act. The assessment to be completed within twelve weeks from today.

4. Shri. Mistri states that the order passed under Section 263 of the Act itself is the subject matter of an appeal before the Income Tax Appellate Tribunal as referred to in paragraph 4(G) of the petition.

5. We are not expressing any opinion or view on that. The Income Tax Appellate Tribunal will consider the same independently on merits.

6. Petition accordingly disposed with no order as to costs.

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

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