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

WRIT PETITION NO. 2983 OF 2019

Bennett Coleman And Company Ltd. ….Petitioner

V/s.

The Deputy Commissioner of Income Tax
1(1)(1) and Ors. …Respondents

Mr. Porus F. Kaka, Senior Advocate a/w Mr. Manish Kanth, Mr. Nitesh Joshi and Mr. Jas Sanghavi i/b PDS Legal for Petitioner.
Mr. Suresh Kumar for Respondents.

CORAM : K.R. SHRIRAM &
N. J. JAMADAR, JJ.
DATED : 15th FEBRUARY, 2022

P.C. :

1. Pursuant to earlier orders passed by this court one Mr.Kartik Kumar Singh, Assistant Commissioner of Income Tax – 1 (1)(1) has filed affidavit dated 31st January, 2022. Though we are not entirely happy with the affidavit, one thing we can cull from the affidavit is that the amount of Rs.1.13 Crores which is alleged in the reasons for re-opening the assessment as having escaped assessment within the meaning of Section 147 of the Income Tax Act, 1961 (the Act) has been considered in the assessment order for A.Y. 2012-13.

2. Mr. Kaka submitted that, if that has already been assessed during the assessment proceedings, how can somebody state that the same amount has escaped assessment within the meaning of Section 147 of the Act.

3. We are in agreement with Mr. Kaka and Mr. Suresh Kumar also in fairness agrees with the view expressed by this court.

4. In the circumstances, petition is allowed in terms of prayer clause – (a) which reads as under:

> *(a) that this Hon'ble Court be pleased to issue a Writ of Certiorari or any other writ order or direction under Article 226 of the Constitution of India calling for the records of the case leading to the issue of the impugned notice and passing of the impugned order and after going through the same and examining the question of legality thereof quash, cancel and set aside the impugned notice dated 30.03.2019 (Exhibit A) and impugned order dated 15.10.2019 (Exhibit C).*

5. Petition disposed.

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