Santosh

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

WRIT PETITION NO. 3577 OF 2019

Nathalal Ranchhod Chamaria, Mumbai ...Petitioner

Versus

The Income Tax Officer Ward 1(1)(4) and ors. ...Respondents

Mr. Dharan V. Gandhi, for the Petitioner.
Mr. Suresh Kumar, for the Respondents.

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

DATED: 25th JANUARY, 2022
(Video Conferencing)

PC:-

1. After hearing the Counsels and going through copy of the petition and affidavit-in-reply, we find that in the order dated 19th November, 2019, which is also impugned in the petition, by which petitioner's objection to the reopening under Section 148 for Assessment Year - 2012-2013 was disposed, the Assessing Officer has not dealt with all the objections raised by petitioner. For example, in the reasons recorded for reopening, it says on verification of ITS details it is noticed petitioner has received Rs.17,88,000/- as rent, but, petitioner has offered income of only Rs.3,26,403/- from house property in his return of income and hence there is a difference of Rs.14,61,597/-. It is quite clear from the statement of income filed by petitioner that petitioner has disclosed income of Rs.8,94,000/- from house property, but what was chargeable under this head was only of Rs.3,26,403/-. It looks like the ITS details has shown double the rental income of Rs.8,94,000/- (Rs.8,94,000 X 2 = Rs.17,88,000/-) offered by petitioner. These points have been raised in petitioner's objection dated 18th November, 2019 filed through his Chartered Accountant. In the order rejecting objection, the Officer has not dealt with these objections or points raised by petitioner.

2. In the circumstances, order dated 19th November, 2019 is hereby quashed and set aside.

3. The matter is remanded to the concerned Assessing Officer, who shall consider the submissions made by petitioner in letter dated 18th November, 2019 and after granting a personal hearing to petitioner pass a fresh order disposing the objections within a period of eight weeks from the date this order is uploaded. The notice of personal hearing shall be given at least seven days in advance.

If the Assessing Officer is going to rely on any judgments/orders of any Court or Tribunal to pass an order disposing the objection, he shall provide a copy thereof to the representative of petitioner in advance so that petitioner's representative may deal with or distinguish it during the personal hearing. The Assessing Officer shall thereafter pass detailed and reasoned order dealing with every point of objections raised by petitioner.

4. Petition stands disposed with no order as to costs.

[N. J. JAMADAR, J.] **[K. R. SHRIRAM, J.]**