IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 627 OF 2020

The Shri Saibaba Sansthan Trust (Shirdi) ….Petitioner

V/s.

The Union of India & Ors. …Respondents

Mr. S. Ganesh, Senior Advocate a/w Mr. Mohan Jayakar, Mr. Ashwin Shede, Mr. Abhay Dhadiwal, Mr. Advait Chardakkar i/b Junnarkar & Associates for Petitioner

Mr. Akhileswar Sharma for Respondents

CORAM : K.R. SHRIRAM &
N.R. BORKAR, JJ
DATED : 28th MARCH 2022

P.C. :

1 Heard the counsel and also perused the reasons recorded for re-opening, objections filed by petitioner to reopening and order on objections dated 8th December 2019 rejecting petitioner's objections, which, alongwith the notice dated 31st March 2019 issued under Section 148 of the Income Tax Act 1961 (the said Act), is impugned in this petition.

2 Mr. Ganesh pointed out that the entire reopening is based on change of opinion and all the points have been scrutinized and discussed in detail during the assessment proceedings. Mr. Ganesh also submitted that the stand of petitioner in the order on objections have not been denied in toto but the Assessing Officer simply states what is submitted by petitioner is not discernible from return of income.

3 Having considered the order on objections, in our view, the concerned

officer has not been able to really appreciate the submissions of petitioner and it would have helped, had a personal hearing been granted. The advantage of giving a personal hearing is, this doubt that the concerned officer had that he was unable to discern from return of income what petitioner has submitted, would not have arisen. Therefore, we, without making any observations on merits of the case set aside the order dated 8th December 2019 which is impugned in the petition. The matter is remanded for denovo consideration and all rights and contentions of petitioner are kept open.

4 Jurisdictional Assessing Officer (JAO) shall also give a personal hearing to petitioner with atleast 7 working days advance notice. JAO shall permit petitioner to also make written submissions following the personal hearing. If in the order, the JAO proposes to rely on any judgments or order passed by any Court or Tribunal, he shall provide a list thereof to petitioner alongwith the notice for personal hearing and give them an opportunity to deal with those judgments or distinguish those judgments and those submissions during the personal hearing.

5 JAO shall pass a well reasoned order by 30th June 2022 dealing with every submissions of petitioner and give complete reasons for the conclusions that he will be arriving at. The assessment proceedings will not be proceeded with for at least 30 days after passing the order on objections. The time spent from the date of filing the writ petition till disposal and the time granted for disposal of objections is to be excluded while computing

the period of limitation for completion of the assessment proceeding.

6 Petition disposed. No order as to costs.

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