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

WRIT PETITION NO.154 OF 2020

Prakhhyat Infraproject Private Limited ...Petitioner
vs.
The Assistant Commissioner of Income Tax 7(3(2) and Others ...Respondents

Mr. M.M. Vaidya, for the Petitioner.
Mr. Suresh Kumar, for the Respondents.

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

DATE : JANUARY 10, 2022

P.C.:

. As could be seen from the order dated 13th December, 2019 which is impugned in the Petition by which Respondents had rejected Petitioner's Petition to reopening, the Respondents admit that during the course of assessment under section 143(3) of the Income Tax Act, Assessing Officer had called for details of the purchase and sales of properties which are the subject matter of reopening and Petitioner had also submitted the relevant details to the Assessing Officer. Because this point has not been disclosed in the assessment order, it means there is no application of mind by the Assessing Officer while completing assessment order.

2. There are catena of judgments, one of which that readily

comes to our mind, is **Aroni Commercials Ltd. vs. Deputy Commissioner of Income-Tax -2(1)**[1] where this Court has held that once a query is raised during the assessment proceeding and the assessee has replied to it, it follows that the query raised was a subject of consideration of the Assessing Officer while completing the assessment. It is not necessary that assessment order should contain reference and/or discussion to disclose its satisfaction in respect of the query raised. On this ground alone, Petition has to be allowed.

3. Petition is allowed in terms of prayer clause (a), which reads as under:

> "That this Court may be pleased to issue a writ of certiorari or writ in the nature of certiorari or any other appropriate writ, direction or order under Article 226 of the Constitution of India calling for the records of the case leading to the issuance of the notice under section 148 of the Income Tax Act, 1961 dated 18th March, 2019, being Exh-E hereto and after going through the same and examining the question of legality thereof to quash, cancel and set aside the impugned notice dated 18th March, 2019 being Ex-E hereto and the order rejecting the Petitioner's objections dated 136th December, 2019, being Exh-H hereto."

4. Petition disposed.

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

1 (2014) 44 taxmann.com 304 (Bombay)