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

WRIT PETITION NO. 91 OF 2020

M/s. Jaunty Trading Pvt. Ltd. ....Petitioner

V/s.

Income Tax Officer Ward 12 (3)(1) ...Respondent

Mr. Sankalp Sharma for Petitioner.
Mr. Sham V. Walve for Respondent.

CORAM : K.R. SHRIRAM &
R.N. LADDHA, JJ.
DATED : 19th JANUARY, 2022

P.C. :

1. Petitioner has correctly raised a grievance that the Jurisdictional Assessing Officer (JAO) who has formed an opinion to re-open the assessment of petitioner for A.Y. 2012-13 could not have re-opened without considering the assessment order that was passed in petitioner's case. In the order dated 9th December, 2019 impugned in the petition by which petitioner's objections were rejected, the JAO admits that the original assessment order is not readily available with him but a copy shall be given during the course of re-assessment proceedings. We find it strange that if he did not even have assessment order with him, how could he have concluded that there was an escapement of income.

2. Therefore, the order dated 9th December, 2019 is quashed and set aside. The JAO is directed to provide petitioner within two weeks from

the date this order is uploaded, a copy of the assessment order dated 28th February, 2016 passed under Section 143(3) of the Act. On receipt of the assessment order, petitioner may file fresh detailed objections to the notice dated 30th March, 2019. The JAO shall thereafter grant a personal hearing to petitioner and after considering the submissions of petitioner shall pass a detailed reasoned order.

3. Liberty of petitioner even raising a ground of non application of mind by the Assessing Officer while recording reasons for re-opening and the grant of approval also without applying mind is expressly kept open. Alongwith the assessment order as directed above, respondent shall also provide a copy of the approval granted for re-opening the assessment.

4. The order on objections shall be passed within eight weeks from the date this order is uploaded.

5. Petition disposed with no order as to costs.

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