IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5159 OF 2023

VIJAY RAOSAHEB JAMKAR
VERSUS
THE PRINCIPAL CHIEF COMMISSIONER INCOME TAX
AND ANOTHER
...
Advocate for the Petitioner : Shri Chandak Raviraj R.
Advocate for the Respondents : Shri Alok Sharma
...

CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.

DATE :- 23rd June, 2023

<u>Per Court :-</u>

1. On 13.06.2023, we had passed the following order:-

"*1. Considering the pleadings in the petition, earlier around of litigation before the Court and the conspectus of the matter, we find that the Petitioner is attempting to play "hide & seek". On the one hand, the Petitioner does not want to state as to whether, the immovable property was sold by him during the financial year 2016-2017 for which, he has earned capital gain of Rs.1,69,03,000. On the other hand, the Petitioner is also not willing to make a statement that no such immovable property has been sold by him. The Department has noticed gain of Rs.1,69,03,000.*

2. We direct the Petitioner to take a clear stand before us by placing the sale deed on record, on the next date.

3. Stand over to 19.06.2023 in the passing orders *category.”*

2. Today, the learned Advocate for the Petitioner has tendered an additional affidavit to comply with our above order. Besides discussing the judgments delivered by various Courts in the affidavit, it is stated that the compliance portal of the Income Tax Department indicates that two immovable properties have been sold and the Petitioner has received the sale proceeds of Rs.20,97,750/- and Rs.85,12,000/-.

3. On instructions, the learned Advocate for the Petitioner submits that now that the notice has been issued under Section 148 of the Income Tax Act, the Petitioner be permitted to raise all grounds and tender an explanation with regard to the prima facie view of the Income Tax Department that the income that was assessable to tax, has escaped assessment.

4. We find that the request of the Petitioner can be considered in view of the recent judgment dated 14.06.2023 delivered by this Court in Writ Petition No.10054/2022 (Aurangabad Bench) (***Country Liquor Retail Shop vs. Ministry of Finance and others)*** and the order dated 12.06.2023 passed by the Calcutta High Court in WPA No.10215/2023 (***Smt.Rachna***

Singhi vs. Income Tax Officer, Ward 30(1), Kolkata and another).

5. Hence, **this Writ Petition is disposed off** with liberty to the Petitioner to tender his explanation with accompanying documents. At the request of the Petitioner, we grant him time until 11.07.2023. Needless to state, thereafter, the Department would proceed strictly in accordance with law.

kps **(Y. G. KHOBRAGADE, J.)** **(RAVINDRA V. GHUGE, J.)**