PURTI PRASAD PARAB

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9029 OF 2023

Kamlesh Vashdev Rohra ....Petitioner

V/s.

Income Tax Officer,
Ward 2(2) and Ors. ...Respondents

Mr. Dharan V. Gandhi a/w Ms. Aanchal Vyas for Petitioner.
Mr. Ajeet Manwani a/w Ms. Samiksha Kanani for Respondents.

CORAM : K.R. SHRIRAM &
NEELA GOKHALE, JJ.
DATED : 4th OCTOBER 2023

P.C. :

1. Prayer clause – (a) of the petition reads as under :

> *(a) that this Hon'ble Court may be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate Writ, Order or direction, calling for the records of the Petitioner's case and after going into the legality and propriety thereof, to quash and set aside the notice show cause notice issued u/s 148A(b) of the Act dated 08.03.2023 ("Exhibit L"), the impugned order dated 29.03.2023 passed under section 148A(d) of the Act ("Exhibit M") and the subsequent notice dated 29.03.2023 ("Exhibit N") issued under section 148 of the Act.*

2. It is petitioner's case that the entire basis for reopening the assessment is by treating petitioner as a person without PAN Number and in whose accounts substantial amounts have been credited. It is petitioner's case that petitioner possesses PAN Number and has been filing returns regularly including for the Assessment Year 2016-17 for which the notice for reopening has been issued alleging escapement of income.

3. It is respondent's case that the information they had received was petitioner was a person without PAN number and notices sent to petitioner was not even replied. Mr. Gandhi states that the address to which the notices were sent was old address of petitioner and not the current address which is mentioned in the returns filed by petitioner for subsequent years.

4. We do not wish to go into all those details in the petition. Since the order under Section 148 A(d) of the Income Tax Act, 1961 (the Act) has been passed and consequently notice under Section 148 of the Act has been issued without hearing or considering petitioner's case, we hereby quash and set aside the order dated 29th March 2023 passed under Section 148 A(d) of the Act and the consequential notice also dated 29th March 2023 issued under Section 148 of the Act.

5. Petitioner shall reply to the notice dated 8th March 2023 issued under Section 148 A(b) of the Act within three weeks.

6. The notice under section 148 A(b) of the Act will be disposed after giving personal hearing to petitioner, notice whereof shall be communicated at least five working days in advance.

7. All rights and contentions of petitioner are kept open.

8. Petition disposed.

9. We clarify that we have not made any observations on the merits of the matter.

(NEELA GOKHALE, J.) **(K.R. SHRIRAM, J.)**