IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9281 OF 2023

Manoj Balkrushna Shelar ….. Petitioner

Vs.

Income Tax Officer
Ward 1(1) and Ors. ….. Respondents

Mr.Shrivallabh Panchpor i/b Ms.Pratibha Gavhane for petitioner

Mr.Ajeet Manwani a/w Ms.Samiksha Kanani for respondents

CORAM: K.R. SHRIRAM, J &
FIRDOSH P. POONIWALLA, J.

DATED : 31st JULY 2023

P.C.

1. Petitioner is impugning order dated 13th May 2023 passed under Section 147 read with Sections 144A(d) and 144B of the Income Tax Act, 1961 ("the said Act") on various grounds.

2. Mr.Panchpor submitted that though in the impugned order there is a reference to the reply filed by petitioner to the notice issued, the Assessment Officer (AO) has not considered the reply or dealt with the submissions of petitioner.

3. Mr.Panchpor submitted that the notice issued was alleging that petitioner has purchased two immovable properties of Rs.42,56,640/- and

Rs.2,41,91,136/- in Financial Year 2014-15 but not considered in the I.T. returns for Financial Year 2014-15 and therefore, there has been an escapement of income. Petitioner has replied to the notice stating that both the properties mentioned in the notice were not purchased by Petitioner and therefore, those properties could not have been tagged to petitioner's PAN. Petitioner also added that Petitioner had purchased another property of about Rs.35 lakhs by taking a home loan having registration date 21st January 2015 and the home loan was granted by DNS Bank which is also reflected in petitioner's CIBIL record. Petitioner also offered to provide Index 2 of the said property. Petitioner had categorically denied having purchased any property worth Rs.42,56,640/- and Rs.2,41,91,136/-. Petitioner requested AO to investigate if somebody has misused petitioner's PAN Number. Having considered the impugned order with the assistance of Mr.Panchpor and Mr.Manwani, we find that the AO has not dealt with any of the submissions of petitioner.

4. Another point raised by Mr.Panchpor is in the reply dated 14th August 2022, petitioner had also requested for a personal hearing to justify along with documentary evidence. No personal hearing was also granted.

5. In our view, therefore, we need not grant the request of Mr.Manwani to file affidavit in reply.

6. The impugned order dated 13th May 2023 is quashed and set aside. Matter is remanded to respondents for *denovo* consideration.

7 Before Respondents proceed further in the matter, respondent no.1 shall provide details and documentary evidence as per the information according to respondents that were available with the I.T.Department referred to in paragraph 5 of the Annexure to Notice dated 5th April 2022 issued under Section 142(1) of the Act. If and only when these details are provided, petitioner shall respond within two weeks of receiving the same. Thereafter, further proceedings can be taken but before any order is passed, petitioner shall be given a personal hearing notice whereof shall be communicated atleast 5 working days in advance.

8. Order to be passed shall be a reasoned order dealing with all submissions of petitioner.

9. Petition disposed.

(FIRDOSH P.POONIWALLA, J.) **(K.R. SHRIRAM, J.)**