IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8778 OF 2023
WITH CIVIL APPLICATION NO. 2613 OF 2024

RAVINDRA JAISINGRAO CHAVAN
VERSUS
OFFICE OF THE ASSISTANT COMMISSIONER OF INCOME TAX AND OTHERS

Mr. R. R. Chandak, Advocate for the Petitioner
Mr. Alok Sharma, Advocate for respondent Nos.1 to 3
Mr. S. S. Deve, Advocate for respondent Nos.4 and 5.

CORAM : RAVINDRA V. GHUGE AND
R. M. JOSHI, JJ.

DATE : 6th MARCH, 2024

PER COURT :-

1. We have heard the learned Advocate for the respective sides. We have perused the affidavit-in-reply dated 1st August, 2023. We find from internal page 4, running page No. 97 of the affidavit-in-reply, as under:

> *"A copy of this draft order u/s 148A(d) is marked as Exhibit R-1. After considering the contents of the draft order u/s 148A(d) the PCIT (Central), Nagpur has accorded approval u/s 151 of the IT Act. However while issuing the final copy of order u/s 148A(d) on 31/03/2023 an human error had occurred by mistake. Therefore, instead of sending the approved copy enclosed as Exh. R-1 one crude draft prepared earlier was pasted in the System. Further, the part of rebuttal of some other case was pasted by mistake. Due to this inadvertent mistake, it appears that submission of the petitioner was totally remained to be considered. However the fact is that submission of the petitioner was duly considered while preparing the draft order u/s 148A(d) which was approved by the Pr. CIT (Central) Nagpur. It is seen that in large number of cases, where*

the petitioner's submission was remained to be considered while passing order u/s 148A(d), Hon'ble High Court has considered the situation and issued order to the Respondents to pass fresh order after considering the submission of the petitioners.

In view of above it is humbly prayed that the Hon'ble Court may

(1) Order may kindly be passed with a direction to pass fresh order u/w 148A(d) and of notice u/s 148 may kindly be issued or otherwise.

(2) Order may kindly be issued to drop this proceedings initiated on 31/03/2023 and allow the Respondent No. 1 to take fresh proceedings."

2. In view of above, the statement set out in the affidavit-in-reply is accepted and the proceedings initiated on 31st March, 2023 are deemed to be dropped. Respondent No.1 would initiate fresh proceedings. The Petitioner shall be granted a reasonable opportunity of hearing and the Authority shall follow the due procedure laid down in law. The dropping of the earlier proceedings shall not give rise to a ground for the Petitioner to raise an objection that the earlier proceedings have been dropped and therefore new proceedings cannot be initiated.

3. With the above directions, **this Writ Petition is partly allowed**. **The Civil Application** would not survive and **stands disposed off**.

(R. M. JOSHI, J.) **(RAVINDRA V. GHUGE, J.)**

ssp