**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.10059 OF 2022

AMOL RAMRAO DAHALE
VERSUS
THE PRINCIPAL CHIEF COMMISSIONER, INCOME TAX AND ANOTHER.

…
Shri Raviraj R. Chandak, Advocate for the Petitioner.
Shri Alok Sharma, Advocate for the Respondents/ IT Department.
...

**CORAM : RAVINDRA V. GHUGE
&
R.M. JOSHI, JJ.**

DATE :- 01st March, 2024

Per Court :-

1. The Petitioner has put forth prayer clauses C and D as under:-

> *"C) By issuing appropriate writ or direction like in nature the impugned notice dated 30.05.2022 u/ Section 148-A(b) of Income Tax Act and order dated 29.07.2022 passed u/Section 148A(d) of Income Tax Act and consequential notice dated 29.07.2022 issued u/sec. 148 of the Income Tax Act, for the assessment year 2017-2018 may kindly quash and set aside.*
>
> *D) To hold and declare that show cause notice dated 30.05.2022 U/Section 148-A(b) and impugned notice dated 29.07.2022 issued U/Section 148 of Income Tax Act is time*

> *barred in view of Section 149 (1)(b) of Income Tax Act, 1961 and therefore, initiation of reopening proceeding for the assessment year 2017-18 is without jurisdiction."*

2. The only issue raised in this Petition is as regards the escaped assessment of an amount, which is less than Rs.50,00,000/- (Fifty Lakh). As regards the issuance of a notice for reassessment or re-computation under Section 147 of the Income Tax Act, 1961, the notice was issued under Section 148 of the Income Tax Act, 1961.

3. The Petitioner had filed the income tax returns for the Assessment Year 2017-2018. Hence, the grievance of the Petitioner is that the notice under Section 148 cannot be issued in the light of Section 149(1)(b) of the Income Tax Act, 1961, with reference to the escaped assessment, if the notice is issued beyond three years of the Assessment Year and if the amount is less than Rs.50,00,000/- (Fifty Lakhs). A notice in peculiar circumstances could be issued even within ten years, provided the escaped income has to be more than Rs.50,00,000/- (Fifty Lakhs).

4. This issue is no longer res-integra and as the Department, despite the vehement submissions of the learned

Advocate Shri Sharma, is unable to indicate from the record that the impugned notice was issued within three years and that the amount of escaped assessment was more than Rs.50,00,000/-.

5. **The Writ Petition is allowed in terms of prayer Clause 'C'.**

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