IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10773 OF 2022

Radheshyam Lalchand Mantri
VERSUS
The Principal Chief Commissioner Of
Income Tax And Another

...

Mr. R. R. Chandak, Advocate for the Petitioner
Mr. A. M. Sharma, Advocate for Respondents

...

CORAM : RAVINDRA V. GHUGE &
R. M. JOSHI, JJ
DATE : MARCH 20, 2024

PER COURT :

1. The substantive prayer put-forth by the Petitioner is in terms of clause 'C'.

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, it is undisputed that 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 2016-2017. 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 such peculiar circumstances could be issued even within ten years, provided the escaped income is more than Rs.50,00,000/- (Fifty Lakhs).

4. This issue is no longer res-integra. Despite the vehement submissions of the learned Advocate Shri. Sharma, for the Department, he 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. **Therefore, this Writ Petition is allowed in terms of prayer Clause 'C'.**

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

Malani