IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 WRIT PETITION NO. 14752 OF 2023

RASDEEP SINGH CHAWLA S/O MANMOHAN SINGH CHAWLA
VERSUS
THE ASSISTANT COMMISSIONER OF INCOME TAX/ INCOME TAX OFFICER AND ANOTHER

….

Mr Ashish Goyal, Advocate h/f Mr B. G. Lathe, Advocate for Petitioner;
Mr Alok Sharma, Advocate for Respondents

CORAM : RAVINDRA V. GHUGE
AND
Y. G. KHOBRAGADE, JJ.

DATE : 18th January, 2024

PER COURT:

1. We have heard the learned Advocates for the respective sides. The learned Advocate for the Petitioner has addressed us on the video conferencing mode from Indore.

2. Considering the order, that we are passing, we need not refer to the entire submissions of the learned Advocates.

3. The learned Advocate for the Petitioner submits that, the case of the Petitioner is that, there is a serious likelihood of double assessment, leading to double taxation. If this proceeding culminates into an order under Section 148 of the Income Tax Act,

1961 (for short ‘the 1961 Act), the Petitioner is likely to be subjected to double taxation. According to him, the assessment with regard to the income that is sought to be done by resorting to Section 148 proceeding of the 1961 Act, without considering that the earlier assessment would indicate that the said amount/income has already been subjected to an assessment treating the Petitioner to be a part of an Hindu Undivided Family (HUF).

4. The learned Advocate for the Respondents/ Income Tax Department submits that the above submissions of the Petitioner is wholly misconceived. The Department applied it's mind while issuing notice under Section 148A(b), and after considering the contentions of the Assessee, an order under Section 148A (d) of the 1961 Act has been passed. He relies upon the judgment of the Hon'ble Supreme Court in the matter of **Union of India Vs. Ashish Agarwal, AIR 2022 Supreme Court 2781,** wherein it is held that, under Section 148A proceedings, all contentions of the Assessee can be considered.

5. In order to ensure that the equities are balanced, we deem it appropriate to direct the Respondent/Income Tax Department to let the Assessee address the Department when the

proceeding under Section 148A of the 1961 Act commences, to the extent of the double assessment, which is likely to lead to double taxation. While deciding this issue, we permit the Petitioner/ Assessee, to enter written notes of submissions along with compilation of case law.

6. The Income Tax Department would consider such submissions and the law cited in the facts and circumstances of the case, and pass a reasoned order. If it comes to a conclusion that there has been no previous assessment of the amount under the Head, under which the assessment is now commenced, it may proceed to deal with the case by passing an order on it's merits.

7. In view of the above directions, by consent, **this Writ Petition is disposed off.** All contention of the parties are kept open.

(Y. G. KHOBRAGADE, J.) **(RAVINDRA V. GHUGE, J.)**

sjk