IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

913 WRIT PETITION NO. 1 OF 2023

MANOJ JAIPRAKASH KABRA
VERSUS
THE INCOME TAX OFFICER AND OTHERS

AND

914 WRIT PETITION NO. 2 OF 2023

KANCHAN MANOJ KABRA
VERSUS
THE INCOME TAX OFFICER AND OTHERS

Mr.D.R.Jethliya, Advocate for the Petitioners.
Mr.Alok Sharma, Advocate for Respondent Nos. 1 and 2.

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

DATE : SEPTEMBER 12, 2024

PER COURT :

1. The substantive prayers put forth by the Petitioners is in terms of clauses A, B and C.

2. The only issue raised in these Petitions is as regards the escaped assessment of an amount, which is less than Rs.50,00,000/- (Rs. Fifty Lakhs). As regards the issuance of notices for reassessment or

re-computation under Section 147 of the Income Tax Act, 1961, it is undisputed that the notices were issued under Section 148 of the Income Tax Act, 1961.

3. The Petitioners have filed the income tax returns for the Assessment Year 2016-2017. Hence, the grievance of the Petitioners is that the notices 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 notices are issued beyond three years of the Assessment Year and if the amount is less than Rs.50,00,000/- (Rs. Fifty lakhs). The notices in such peculiar circumstances could be issued even within ten years, provided the escaped income is more than Rs.50,00,000/- (Rs. 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 notices were issued within three years and that the amount of escaped assessment was more than Rs.50,00,000/-.

5. Therefore, these **Writ Petitions are allowed** in terms of prayer clause ‘C’.

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