IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 606 OF 2024

Aniruddha Balwant Deshpande
-Vs.-
Income Tax Officer, Nagpur and others

Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders.

Mr. Kapil Hirani, counsel for the petitioner.
Mr. B.N.Mohata, counsel for the respondents.

CORAM : AVINASH G. GHAROTE &
SMT. M. S. JAWALKAR, JJ.

DATE : 25TH JANUARY, 2024

Heard Mr.Hirani, learned counsel for the petitioner.

2. The notice under Section 148 of the Income Tax Act, 1961 (for short 'IT Act') dated 29/03/2023 (pg.112) is the subject matter of challenge on the ground that since the transaction of sale of immovable property was dated 24/08/2015 for the consideration of Rs.2,50,000/- the same could not have been reopened for assessment under Section 149(1)(a) of the IT Act, being for a period beyond three years from the year of assessment. It is also contended that even if section 49(1)(v) is held to be applicable, the income chargeable to tax, which has been claimed to be Rs.51,00,000/- on the basis of section 50-C of the IT Act, the cost of acquisition as on the base date of 01/04/2001, will have to be deducted for the purpose of determining income chargeable to tax. According to learned

counsel, in view of the valuation done, in respect of the property in question, the value as on 01/04/2001 was Rs.4,26,491/-, deducting which from the value of Rs.51,00,000/- on the date of the transaction, assessed under Section 50-C the same, would be less than Rs.50,00,000/- and therefore, the provisions of Section 149(1)(b) of the IT Act also would not be attracted. It is also contended that even otherwise, on account of the transfer of the property, it would not fall within the definition of "asset" as stated in Section 149(1)(b)(i), in view of the explanation appended thereunder of the word "asset". Issue notice for final disposal, returnable on 01/02/2024.

3. Learned counsel Mr. Mohata waives service of notice on behalf of the respondents.

4. Till the returnable date, no further action shall be taken on the basis of notice issued under Section 148-A of the IT Act.

(SMT.M.S.JAWALKAR,J) (AVINASH G.GHAROTE,J)