



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.17449 OF 2023

Ganesh Ramesh Chavan

...Petitioner

Versus

Income Tax Officer, Circle 42(2)(1) & Ors.

...Respondents

Mr. Karan Gajra for Petitioner.

Ms. Sushma Nagaraj (through V.C.) for Respondents-Revenue.

**CORAM: K. R. SHRIRAM &
NEELA GOKHALE, JJ.****DATED: 25th October 2023****PC:-**

1. After the Petition was heard for some time, Ms. Nagaraj informs the Court that her instructions are to agree to quashing of the assessment order and the matter be remanded to Jurisdictional Assessing Officer (“**JAO**”) to the stage of issuance of notice dated 24th May 2023 under Section 142(1) of the Income Tax Act, 1961 (“**the Act**”). Ms. Nagaraj also states that the JAO shall provide Petitioner within two weeks from today, the documents/specific information received to allege that Petitioner has paid cash of Rs.15,27,000/- to one Bhagwati Developers and its group. Mr. Gajra states that within two weeks of receiving those documents, he would supplement the response submitted to the notice dated 24th May 2023 issued under Section 142(1) of the Act.

2. Ms. Nagraj also submitted that in view of the order F.No.187/3/2020-ITA-1 dated 31st March 2021, Petitioner's case was transferred from the Faceless Assessment Unit to JAO. Though Mr. Gajra does not agree with Ms. Nagaraj, because according to Mr. Gajra, the Notification dated 29th March 2022 which is annexed at Exhibit 'M' to Petition shall prevail, on instructions, agrees that the matter could be disposed by the JAO.

3. In view of the above, we pass the following order:

ORDER

- (a) The assessment order dated 29th May 2023 is quashed and set aside.
- (b) Within two weeks from today, the JAO shall provide to Petitioner the specific information as well as documents forming part of the specific information relied upon to issue the notice under Section 148A(b) of the Act to Petitioner.
- (c) Within two weeks of receiving the documents, Petitioner shall file a further response to the notice dated 24th May 2023 issued under Section 142(1) of the Act.
- (d) Petitioner may raise all grounds that he has even to object the reopening of the assessment.
- (e) Final order shall be passed after giving a personal hearing

to Petitioner, notice whereof shall be communicated at least five working days in advance.

(f) The order to be passed shall be a reasoned order dealing with all submissions of Petitioner.

(g) The JAO shall dispose the matter on or before 31st December 2023.

(h) Petition disposed. No order as to costs.

4. We have not made any observations on the merits of the matter.

5. In view of the above, all consequential proceedings including demand notice/penalty proceedings are also quashed and set aside.

(NEELA GOKHALE, J.)

(K. R. SHRIRAM, J.)