



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5966 OF 2023

Kalpita Arun Lanjekar

...Petitioner

Versus

Income Tax Officer, Ward-28(2)(1) & Ors.

...Respondents

Mr. Govind Javeri for Petitioner.

Mr. Arjun Gupta for Respondent Nos. 1 & 2-Revenue.

CORAM: K. R. SHRIRAM &
DR. NEELA GOKHALE, JJ.

DATED: 11th March 2024

PC:-

1. Petitioner, a housewife who had no income and therefore, was not filing any income tax return, received a notice dated 19th February 2023 from Respondent No. 1, the Income Tax Officer, Ward-28(2)(1) under Section 148A(b) of the Income Tax Act, 1961 (“**the Act**”). In the notice it is stated that the officer has information which suggests that income chargeable to tax for Assessment Year 2016-2017 has escaped assessment. The details of information were also made available and it reads as under :

“As per information received from “INSIGHT PORTAL” under Risk Management Strategy (RMS), you have done high value transaction during the year under consideration, however, on verification of the various portals viz. ITBA, Insight, e-filing & CPC-2 portal, it is seen that no ITR has been filed by you for the A.Y.-2016-2017. Therefore, the case has been classified as “Non-filer cases under RMS Cycle for A.Y.-2016-2017”. Since, you have not filed return of income for A.Y.-2016-2017 even though you have made huge transaction during

FY.-2015-2016 for which information is already available on portal, hence, enquiry is not required in your case.

2. The details of information description, source and nature of information, value/amount of transaction related to show-cause notice u/s 148A(b) of the Income Tax Act is attached separately, and the same are as under :

Information Code	Information Description	Source	Count	Amount Description	Amount (Rs.)
AIR-006	Purchased immovable property valued at Rs. 30,00,000 or more	SUB REGISTRAR THANE VI	1	Amount	1,13,75,000/-

3. The above mentioned information suggest that the income chargeable to tax has escaped assessment for the A.Y.-2016-2017. Therefore, you are hereby required to show-cause as to why proceedings u/s 148 of the Income Tax Act should not be initiated against you. Your reply should be supported by following details/documents :

- i) Head-wise computation of income.*
- ii) Details of purchase of immovable property during FY.-2015-2016 supported with copy of registered agreement with Index-II.*
- iii) Details of payment made and source for acquisition of said immovable property supported with copy of bank statement highlighting the transaction.*
- iv) If the property was purchased jointly, please furnish the details and source of all joint holders with supporting documents and copy of return of income filed.*
- v) Please specify the reason in detail as to why you have not filed return of income for A.Y.-2016-2017 even though, you have taxable income during FY.-2015-2016.*

You may submit any other details you relied upon, as deemed fit in support of your claim.”

2. Petitioner by a letter dated 28th February 2023 issued through Raju More & Associates, Chartered Accountants submitted that the property was purchased by her husband Mr. Pravin Patil and all the payments were made by him. Petitioner also explained that

Petitioner's name was included as a joint holder in the agreement for sale, but no payment has been made by Petitioner. Copy of the registered agreement for the property, husband's bank details etc. were made available.

3. Notwithstanding the details and documents being provided, the impugned order dated 31st March 2023 under Section 148A(d) of the Act has been passed. It is stated in the order that the Assessing Officer ("AO") has examined whether assessment is needed and the explanation and documents submitted by assessee do not conclusively preclude the suggestion based on the information available that the income chargeable to tax has escaped assessment. The only basis on which the order has been passed is, the assessee has not submitted the details of source of Rs. 88,75,000/- paid for purchase of property by her husband, source and the details of receipt of amount from the relatives, whereas the husband's income is only Rs. 18,49,980/-.

4. Though Mr. Gupta has strongly opposed the petition, but at the end he agreed that those details have to be sought from the husband for husband's assessment and not from Petitioner herein because the AO has accepted that Petitioner has not made any payment for purchase of property.

5. We also have to notice that surprisingly the Principal Chief Commissioner of Income Tax has also accorded sanction for issuance of this order instead of directing the AO to drop the proceedings against Petitioner.

6. In the circumstances, we hereby quash and set aside the order dated 31st March 2023 passed under Section 148A(d) of the Act, because in our opinion, it is not a fit case for reopening the assessment in the case of Petitioner.

7. Petition disposed.

(DR. NEELA GOKHALE, J.)

(K. R. SHRIRAM, J.)

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