IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 247 OF 2023

C. C. Dangi & Associates … Petitioner

Versus

Assistant Commissioner of Income Tax, Circle – 16(2), Mumbai & Ors. …Respondents

Mr. J. D. Mistri, Sr. Adv., a/w. Madhur Agrawal, i/b. Atul K. Jasani, for the petitioner.
Dr. Dhanalakshmi Iyer, for the respondents.

CORAM: G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

DATED: 26 NOVEMBER 2024

ORAL JUDGMENT: [Per G. S. Kulkarni, J.]

1. This petition under Article 226 of the Constitution of India assails a notice issued to the petitioner under Section 148 of the Income Tax Act, 1961 ("**IT Act**" for short) dated 31 March 2022. The Assessment Year ("**A.Y.**" for short) in question is A.Y. 2018-2019. The impugned notice is issued to the petitioner after a prior procedure, being followed, namely, of issuance of a notice under Section 148A(b) as also an order passed on such notice under Section 148A(d) of the IT Act.

2. The primary contention urged by the petitioner is that the entire basis to issue the same is on a report generated by the Central Goods and Service Tax ("**CGST**" for short) Authorities that certain entities were engaged in issuing/generating/providing fake/bogus invoices to pass on a fraudulent "Input Tax Credit" ("**ITC**") without supply of goods. In so far as the petitioner is concerned, this was in relation to an entity M/s Flash Forge Private Limited ("**M/s. Flash Forge**" for short) which according to the assessing officer has issued fake invoices in favour of the petitioner amounting to Rs.10,97,500/- for the assessment year in question. It is on such count the case of the department is that income in the sum of Rs. 10,97,500/- chargeable to tax had escaped assessment, as the petitioner has not set out as to what kind of professional services were rendered by it to M/s Flash Forge. The assessing officer hence has found it appropriate to reopen the petitioner's assessment.

3. Briefly, the relevant facts are: On 24 August 2018, petitioner filed its return of income for the A.Y. 2018-2019. The petitioner claims to be a firm of Chartered Accountants. It was established in the year 1984 and since then is engaged in practice of Chartered Accountancy. Since the year 2010, the firm started rendering services related to audit and assurance, also taxation services to corporate and non-corporate assessees.

4. On 10 March 2022, a show cause notice came to be issued to the petitioner under clause (b) of Section 148A of the IT Act calling upon the petitioner to show cause, as to why in view of the details as set out in the annexure to the said notice, proceedings under Section 147 of the IT Act should not be initiated against the petitioner. The annexure stated that in relation to the petitioner's income for the A.Y. 2018-19, certain information was received as per the risk management strategy of the Central Board of Direct Taxes ("**CBDT**" for short). It is recorded that the incident report generated by the CGST Authorities indicated that M/s Flash Forge was engaged in issuing/generating/providing fake/bogus invoices for passing of fraudulent input tax credit, without supply of goods, from which it was gathered that total purchases reported of M/s Flash Forge against the petitioner for Rs.10,97,500/- who may be the beneficiary of the bogus ITC, hence why such income escaping assessment be not taxed in such proceedings.

5. The petitioner responded to the said show cause notice by submitting a detailed reply dated 15 March 2022, wherein the petitioner *inter alia* pointed out its background as an assessee, namely, it was a firm of Chartered Accountant, engaged in audit and assurance, also taxation related services, being offered to corporate and non-corporate assessees. It was also pointed out that in the assessment year in question, the petitioner has neither purchased any goods nor sold any goods to M/s Flash Forge and had merely

rendered professional services to M/s. Flash Forge for which four invoices were issued for a total amount of Rs.12,95,050/- and against the said invoices, payments were received by the petitioner of Rs. 11,80,000/- which included Rs.9,00,000/- as professional fees, Rs.1,00,000/- as Tax Deduction at Source ("TDS" for short) and Rs.1,80,0000/- Goods and Service Tax ("GST"). All such details of the GST deposited by the petitioner with the government treasury were also set out. The petitioner also furnished all the details of the professional fees received by the petitioner for the said assessment year as also provided all the documents including income and expenditure accounts, income tax return, acknowledgment and relevant extracts of income tax return for A. Y. 2018-19. The petitioner also furnished copies of the department's record namely the Form 26-A, which contained the details of professional fees and TDS deducted thereon by M/s Flash Forge. The petitioner also provided with the screenshots of GSTR-1filed by the petitioner for the year under consideration reflecting invoices issued through M/s Flash Forge. It was also pointed out that an amount of Rs.1,05,300/- was still receivable from M/s. Flash Forge. The petitioner also pointed out that the receipts amounting to Rs.10 lakhs were inclusive of TDS deducted of Rs.1 lakh which were duly incorporated in the books of account under the head 'professional receipt' and offered to tax for the year under consideration. It was further submitted that the petitioner was maintaining its books of account on cash basis and in

support of such explanation, petitioner also annexed the ledger account of M/s Flash Forge as also copies of its bank statement, reflecting the amount received from M/s Flash Forge. It was thus, categorically pointed out that the petitioner had taken into consideration professional fees received from M/s Flash Forge, while filing return of income and duly offered to tax the amount of professional fees received from the said party, hence, no income had escaped assessment for the A.Y. 2018-2019 as alleged. We note that all the documents which were furnished to the department in reply to the show cause notice under Section 148A(b) are placed on record of this petition.

6. It is on the aforesaid premise, the assessing officer proceeded to pass an order dated 31 March 2022 under Section 148A(d) *inter alia* recording that in the petitioner's case information was flagged in accordance with the risk management strategy formulated by the CBDT, and as per such information, it was noticed that under the incident report generated by CGST authorities, there were certain entities which were engaged in issuing/generating/providing fake/bogus invoices for passing fraudulent tax credit, without supply of goods. M/s Flash Forge was one of such entity which had prepared fake invoices, issued to the petitioner amounting to Rs.10,97,500/- for A. Y. 2018-2019. It was further stated that approval was taken from the Principal Commissioner of Income Tax (**"PCIT"** for short) for issuing show cause notice under Section 148A(b), hence, after receiving proper approval such notice was issued. Insofar

as the contents of reply submitted by the petitioner are concerned, quite significantly and surprisingly the following observations were made by the assessing officer:-

> "In this case information was flagged in accordance with the risk management strategy formulated by the Central Board of Direct Taxes. The information is as follow:
>
> As per incident report generated by CGST authorities, certain entities are engaged in issuing/generating/providing fake/bogus invoices for passing fraudulent input tax credit without supply of goods. Of the details available to this office, it is seen that M/s Flash Forge Pvt Ltd is one such entity which has made such fake invoice for our assessee CC Dangi & Associates, amounting to Rs. 10,97,500/- for AY 2018-19.
>
> Prior approval was taken from Principal Commissioner of Income Tax for issuing show cause notice to assessee u/s 148A(b). After receiving prior approval, a show cause notice u/s 148A(b) of the Act, dated 10-03-2022 was issued to assessee asking to show cause why notice u/s 148 should not be issued as income chargeable to tax has escaped assessment. Assessee was given 7 days time till 17-03-2022 to respond to this notice.
>
> In response to that the assessee submitted its reply dated 15.03.2022. The same is discussed herein.
>
> The Assessee has stated that it is a CA firm engaged in rendering services relating to Audit & Assurance and taxation to corporate and non corporate assesses. The Assessee submitted that they neither purchased any goods nor sold any goods to M/s Flash Forge Pvt Ltd but rendered their professional services to them.
>
> However, the assess has not mentioned what kind of professional services have been rendered and since how long has it been associated with this company, M/s Flash Forge Pvt Ltd. They have not shared any contract entered into with M/s Flash Forge Pvt Ltd. to deliver services, invoices raised against the company, proof of billable hours or delivery of service, project details etc. No such documents have been submitted.
>
> M/s Flash Forge Pvt Ltd is a company registered outside Maharashtra, the Assessee has however deducted CGST/SGST and not IGST in this case.
>
> Further, merely depositing the GST amount collected into government treasury does not verify the genuineness of the transaction made. Thus the documents presented by the Assessee do not confirm the genuineness of the transaction.

> **Hence, based on the above observation which originate from the material/information available on record with the Assessing Officer. Prima facie it appears that income to the tune of Rs. 10,97,500/- chargeable to tax has escaped assessment.**
>
> Therefore, a prior approval was sought to pass the order u/s 148A(d) of the Income Tax Act, 1961, from the Specified Authority, Principal Commissioner of Income Tax and after receiving the prior approval from the specified authority, an order u/s 148A(d) of the Income Tax Act, 1961 is passed."
>
> (emphasis supplied)

7. It is on the aforesaid premise, the impugned notice under Section 148 of the IT Act dated 31 March 2022 was issued to the petitioner proposing to assess or re-assess the petitioner's income for the A.Y. 2018-2019. The petitioner was called upon to file a fresh return within 30 days from the receipt of said notice for the A. Y. 2018-2019.

8. Mr. Mistri, learned senior counsel for the petitioner, at the outset, has stated that copy of the approval as granted by the PCIT for issuance of the impugned notice under Section 148 was furnished to the petitioner today in the Court, a copy of which is placed on record.

9. Reply affidavit of Shri. Amitkumar, Deputy Commissioner of Income Tax Circle-(16)(2) to the petition has been filed. We have perused the affidavit. It is the reiteration of what has been observed in the order passed by the assessing officer under Section 148A(d) of the IT Act. In Paragraph 5.5 of the reply affidavit, the following contentions has been raised:-

> "As per their submission dated 15.03.2022, the petitioner has raised an invoice of Rs. 10,97,500/- on the company M/s Flash Forge Private ltd for certain services provided by the them. However, the petitioner has not provided any conclusive evidence of the nature of the services rendered for eg. an existing contract with the company, proof of work done like billable hours etc. thus the genuineness of the transaction has not been proven."

Submissions on behalf of the petitioner

10. Mr. Mistri, learned senior counsel for the petitioner has made the following submissions in assailing the impugned notice under Section 148: The first submission is that the impugned notice proceeds on incorrect facts and that the entire exercise as undertaken by the assessing officer is without application of mind on the primary ground, that when the petitioner had no transaction for supply of goods with M/s. Flash Forge and for which no invoices were raised by the petitioner on M/s Flash Forge, so as to infer that any income had escaped assessment. It is submitted that the record clearly indicated that the petitioner had not received any goods or invoices from M/s Flash Forge which can be categorised as bogus invoices for any utilisation of any fraudulent ITC. It is submitted that also no payment was made to such entity and in fact, what was rendered by the petitioner was professional services and for which fees were received, on which the GST amount was deposited as also income tax on such receipt was deposited. It is next submitted that the income received by the petitioner by way of professional fees from M/s Flash

Forge was offered to tax, and such receipts and tax paid on the same was part of the return as filed by the petitioner. Also in the accounts as maintained by the petitioner, the details of such receipts were appropriately made and already provided to the assessing officer. It is thus Mistri's contention that there was no question of the assessing officer making additions on the basis of the information received from the CGST authorities in relation to M/s Flash Forge, without verifying the details of the amounts which were received by way of professional fees from M/s Flash Forge.

11. Mr. Mistri would next submit that in the present case, the non-application of mind on the part of the assessing officer is quite glaring as seen from the impugned order dated 31 March 2022, whereby the petitioner's contention in the reply to the show cause notice has been rejected. He submits that the assessing officer in fact has made observations that the petitioner has not stated on the nature of the professional services rendered by it to M/s Flash Forge, when all the details in that regard were submitted by the petitioner. Mr. Mistri would further submit that, although the assessing officer has held that the petitioner deposited the GST amount collected/received by the petitioner from M/s Flash Forge, with the government treasury, however this would not show the genuineness of the transactions. This according to Mr. Mistry is something wholly unimaginable and arbitrary in the absence of any material.

It is therefore Mr. Mistri's contention that this is a case wherein there is a highest degree of non-application of mind on the part of the assessing officer.

12. Mr. Mistri would next draw our attention to the nature of the approval granted by the Principal Commissioner of Income Tax-8 Mumbai Circle-16(2) (for short "**PCIT**"), under Section 151 of the IT Act, for issuance of a notice under Section 148, in which the PCIT refers to bogus purchases made by the petitioner/assessee as seen from the notings and remarks made by the PCIT when he refer to a "One World group of entities". It is submitted that this is completely a third entity referred in such remarks. It is submitted that such "entities" were totally unconnected with the case of the petitioner, as this was not even brought out by the assessing officer. He therefore submits that the remarks which are set out shows gross non-application of mind on the part of the PCIT, in granting approval in issuance of this notice. It is therefore Mr. Mistri's submission that for such reasons, the impugned notice under Section 148A(b) as also the impugned notice under Section 148 are required to be quashed and set aside.

Submissions on behalf of the Revenue

13. On the other hand Ms. Iyer, learned counsel for the Revenue has drawn our attention to the reply affidavit filed on behalf of the Revenue in supporting the case of the Revenue in issuance of the notice under Section 148.

She has taken all efforts to buttress the case of the Revenue to submit that this is a case where the assessing officer was justified in considering the information which was flagged in the risk management strategy formulated by the CBDT. She would submit that the information which was available from the CGST authorities in fact questioned the invoices which were issued by the petitioner, and taking into consideration such materials, the impugned notice under Section 148A(b) as also order passed thereon under Section 148A(d) and the notice under Section 148 as assailed, was issued to the petitioner. Learned counsel for the Revenue has also urged that the petitioner has an alternate statutory remedy available to file an appeal, for such reason, this petition should not be entertained. She would hence submit that the petition be accordingly dismissed.

Reasons and Conclusions

14. We have heard learned counsel for the parties. With their assistance, we have also perused the record.

15. At the outset, we may observe that the petitioner is correct in its contention that this is a case which depicts a gross non-application of mind on the part of the assessing officer for the reasons we discuss hereunder.

16. In our opinion, the approach of the assessing officer was totally unfounded for more than one reason. The primary reason being the assessing

officer's understanding of the GST transactions; secondly, the assessing officer's complete mis-reading of the facts, this despite the correct facts being placed on the record of the assessing officer by the petitioner; and thirdly, tangible material in the form of all documents pertaining to the professional services as rendered by the petitioner to M/s Flash Forge and all the details in that regard as reflected in the books of accounts in relation to receipt of fees, the TDS amounts deposited as also the GST amounts deposited in the treasury, have been completely overlooked, misconstrued by the officer.

17. We are in fact not only surprised but pained with the approach of not only the assessing officer in showing such gross non-application of mind, but also with the mechanical approach of the PCIT, Mumbai, in according approval to the issuance of notice to the petitioner under Section 148A(b). This aspect we advert to little later.

18. At the outset, we wonder as to how without verifying the petitioner's credentials and merely on the basis of some information which was available with the CGST authorities, the assessing officer without verifying the returns which were filed by the petitioner and the supporting documents, qua the professional fees as received by the petitioner from M/s. Flash Forge, could have proceeded to issue a notice under section 148A(b). In this context, we may observe that the reasons which are set out in the annexure to the notice

under section 148A(b) are purely on the information which is gathered under the central information mechanism as per the risk management strategy, which according to the assessing officer indicated that M/s Flash Forge was engaged in issuing, providing bogus invoices for fraudulent income tax without supply of goods. This could be so, however, it was necessary for the assessing officer to verify the nature of petitioner's professional activities qua M/s Flash Forge. On a scrutiny of the record, it ought to have been verified as to whether the petitioner had any connection or has gained income from fradulent ITC so that income in that regard had escaped assessment, so as to initiate such action under Section 148A(b). The information which was gathered by the department indicated that M/s Flash Forge had made payments of Rs.10,97,500/- to the petitioner. However, there was no material for the assessing officer to jump to a conclusion, that having received such amount, the petitioner was deemed to be involved and/or was the beneficiary of any bogus input tax credit as being portrayed by the CGST authorities. In our opinion, when tested on record it was a wholly unwarranted and a wholly erroneous assumption of the assessing officer and the PCIT to reopen the petitioner's assessment on such count. In fact, this is a case depicting a mechanical approach being adopted by both these officers.

19. To us it also appears to be a classic case wherein certain information which may be relevant in so far as the CGST authorities are

concerned in relation to the transactions qua a registered person under the CGST Act is being mechanically and without application of mind, taken to be relevant, in so far as the proceedings under the IT Act are concerned, more so, when it is a case of re-opening of the assessment. We say so, as the CGST regime is governed by the provisions of the Central Goods and Service Tax Act and the State Goods and Service Tax Act as applicable. In so far as the income tax is concerned, it is governed under an independent enactment, namely the Income Tax Act, 1961. Both these Acts operate in different fields, with independent scheme of taxation, hence, there is no question of any overlapping or intermixing of the jurisdictions of these authorities, which stand compartmentalized. Even if some information is available under the CGST regime in respect of the registered person (assessee), the same cannot *ipso facto* and/or automatically apply to an assessee under the IT Act, unless the assessing officer has tangible material to indicate that certain transactions, which are relevant to the CGST are also relevant and necessary, in so far as the returns filed by an assessee are concerned, and any bogus transactions or anything in relation to such transactions, becomes relevant in so far as in a given case, qua the income disclosed by the assessee under the IT Act is concerned. This can be the case when an assessee in filing his returns does not disclose the true and correct income. It is only when such tangible material is

available, the assessing officer would have reason to believe, that income has escaped assessment for such conduct of the assessee.

20. However, in the present case, certainly the facts demonstrate that this is not a case where the income of the petitioner has escaped assessment on any CGST issue considering what has been pointed out by the petitioner in the reply to the show cause notice issued under Section 148A(b). The assessing officer merely on the basis of the information as found from the CGST authorities could not have proceeded to take steps to reopen the petitioner's assessment, when none of the materials from the CGST portal were relevant qua the assessee/petitioner was concerned.

21. What is more astonishing is that the petitioner, in its reply dated 15 March 2023 (as noted by us hereinabove) submitted every possible detail which ought to have completely satisfied the assessing officer not only in relation to professional services/activities of the petitioner but also all the credentials and information as submitted on the books of accounts and on the professional receipts, the amount which are received from M/s Flash Forge, the TDS amount as deposited, the GST amount as deposited, the 26A statement and all other possible information which would show not only the professional standing, but the bona fides of the petitioner.

22. It is also noteworthy that the invoices for professional fees were issued by the petitioner to the said M/s Flash Forge, accordingly amounts were received by the petitioner qua the said invoices and no other amounts were received. However, surprisingly it appears that all this was not considered relevant by the assessing officer. He decided to overlook the detailed reply to the show cause notice submitted by the petitioner, moreover the order passed by the assessing officer under clause(d) of Section 148A would show a gross non-application of mind, and more particularly, when he makes an observation that the assessee has not mentioned the kind of professional services which were rendered by it to M/s. Flash Forge and since how long the petitioner was associated with M/s Flash Forge. Such observations as made by the assessing officer has created a serious doubt in our mind as to whether the assessing officer can be said to be at all aware on his jurisdiction, under the provisions of the IT Act and more particularly when he decided to issue a notice to the petitioner under Section 148A(b) and also pass an order thereon.

23. The observations as made in the impugned order passed under Section 148A(d) has also shocked our conscience. Further, things do not stop at this, when we noticed the remark which are made by the PCIT, Mumbai 8, Circle 16(2). The PCIT in our opinion has surpassed the assessing officer when he makes his noting/remarks in according an approval, for issuance of a notice

under Section 148A to the petitioner. The remarks as made by the PCIT are required to be noted, which reads thus:

> "The assessee has made bogus purchases from One World group of entities. In all cases of accommodation entries, the purchases are inflated resulting in suppression of profits and thereby reduction of taxable income while claiming fradulent ITC. In such cases, the paper trial is complete including transactions through bank accounts but contemporaneous corroborative evidences like LR, GRN, entries in stock register. Hence, the purchases cannot be proved. Approval given to issue order u/s. 148A(d). The A.O. may issue notice u/s 148 thereafter."

24. A firm of Chartered Accountants, which is providing to its clients accounting and audit services, certainly cannot be alleged to have made bogus purchases from "One World Group of Entities" and in respect of which there was not a iota of material, over and above this, the petitioner has been alleged of having accommodation entries in regard to these purchases which are stated to be inflated resulting in suppression of profits, thereby reducing of the taxable income of the petitioner, while claiming fraudulent ITC, when there was no ITC whatsoever being claimed by the petitioner. All these remarks being made by the PCIT against the petitioner in granting approval under Section 151 of the IT Act for issuing notice under Section 148 of the IT Act, in our opinion, has crossed all limits of legitimacy in the discharge of the official duties by the PCIT. The norms of prudent and diligent duty to be exercised by the PCIT hence stands breached. Also, such approval crosses all boundaries of the mechanical approach as also of non-application of mind by

the PCIT, who needs to act with more circumspection and seriousness.

25. From the reading of the PCIT's remarks (supra), we may observe that if such high officers act with such colossal non-application of mind, amounting to an abuse of the authority and powers which are vested in him in law, which is coupled with a serious duty and an obligation to adhere to the correct facts of the case and on appropriate understanding of the law in grant of an approval, what can be the plight of the assessee. We have a serious doubt whether the concerned PCIT who has granted such approval can at all continue to discharge his duties on such post. This is required to be seriously considered by the CBDT, in deciding the competence of an officer who is being conferred with such enormous powers, considering the approval as accorded in the present case.

26. We are not happy to make the abovesaid observations. Suffice it to observe that we cannot overlook such gross non-application of mind and totally irrelevant remarks which are alien to the petitioner's case, has caused serious prejudice to the petitioner, leading the petitioner to knock the doors of this Court and invite an adjudication on this petition. This is not the first time that the Court is required to observe on such conduct of the PCIT. In ***Samp Furniture Private Limited vs. Income Tax Officer, Ward 3(3)-Thane & Ors***[1] this Court observed that the Chief Commissioner of Income Tax had acted

1. WP No. 3290 of 2024, Bombay High Court.

with total non-application of mind in granting approval in question in the said case. It was observed that such non-application of mind had caused serious prejudice and harassment to the petitioner therein. The Court also observed that the provisions of the Act would in no manner justify such action permitting the Chief Commissioner to exercise powers under Section 151 in such arbitrary manner. The Court also observed that in fact in exercising authority in such manner, the whole purpose of sanction under Section 151 stood defeated, in resorting to an action being taken against the object and spirit of the provisions of law resulting in serious consequences. The Court reprimanded such actions and considering such conduct, it imposed cost of Rs.25,000/- on the Jurisdictional Assessing Officer ("***JAO*** " for short) and Chief Commissioner of Income Tax to be deposited personally. This Court, following the decision in Samp Furniture Private Limited (supra), in ***Saraswat Co-operative Bank Limited vs. Assistant Commissioner of Income-tax Circle – 1(3)(1) and Others***[2] made the following observations:

> "23. The power to sanction reassessment under Section 151, is coupled with a duty to exercise such power reasonably, and not arbitrarily. It is trite law that absence of avalid reasons constitutes arbitrariness. In the instant case, the entire process of according sanction demonstrates non-application of mind to the ingredients of Section 147, rendering the sanction to be arbitarary, calling for intervention by a writ court. Evidently, the proposal, the recommendation and the approval in the instant case was mechanical, without either application of mind to the law and the facts or even a modicum of how the ingredients of the law had been met. In short, the machinery under Section 151 completely failed."

2. WP No. 1910 of 2022, Bombay High Court.

27. In ***Principal Commissioner of Income Tax -1 vs. SVD Resins & Plastics Pvt. Ltd.***[3] [to which one of us (G.S. Kulkarni, J) was a member] the Court observed that it would be an untenable approach on the part of the assessing officer to rely on information received from the Sales Tax department without verification of such information in regard to its relevance, in so far as the assessee is concerned and the returns the assessee had filed. The following observation as made by the Court are required to be noted, which reads thus:

> "16. The assessee has happily accepted such finding as this has benefited the assessee, looked from any angle. However, in a given case if the Income Tax Authorities are of the view that there are questionable and/or bogus purchases, in that event, it is the solemn obligation and duty of the Income Tax Authorities and more particularly of the A.O. to undertake all necessary enquiry including to procure all the information on such transactions from the other departments/authorities so as to ascertain the correct facts and bring such transactions to tax. If such approach is not adopted, it may also lead to assessee getting away with a bonanza of tax evasion and the real income would remain to be taxed on account of a defective approach being followed by the department."

28. Similar view was taken by the Court in ***Ashok Kumar Rungta vs. Income Tax Officer***[4] in which the Court has also followed the decision in SVD Resins & Plastics Pvt. Ltd. (supra).

29. Applying the aforesaid principles to the proceedings in hand, looked from any angle, the impugned show cause notice issued to the

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3. ITXA No.1662 of 2018, Bombay High Court.

4. [2024] 167 taxmann.com 429 (Bombay) [15-10-2024].

petitioner under Section 148A(b) and also the consequent order under Section 148A(d) and the impugned notice dated 31 March 2022 issued to the petitioner under Section 148 cannot be sustained and is required to be quashed and set aside.

30. The Petition is required to be allowed. It is allowed in terms of prayer clause (a), which read thus:

> "a. that this Hon'ble Court be pleased to issue a Writ of Certiorari or any other writ order or direction under Article 226 of the Constitution of India calling for the records of the case leading to the issue of the impugned initial notice (Exhibit B) dated 10th March, 2022, passing of the impugned order (Exhibit D) dated 31st March, 2022 and the issue of the impugned notice (Exhibit E) dated 31st March 2022 and after going through the same and examining the question of legality thereof quash, cancel and set aside the impugned initial notice (Exhibit B) dated 10th March, 2022, the impugned order (Exhibit D) dated 31st March, 2022 and the impugned notice (Exhibit E) dated 31st March 2022."

31. Considering our observations as made above, this is a fit case wherein the approach as adopted by the Court in Samp Furniture Private Limited (supra) needs to be followed, namely to direct the concerned JAO in the present case as also the PCIT Mumbai-8, Circle 16(2) to personally pay cost of Rs.25,000/- each, to be deposited with the "**National Association for Blind**", having its office at 11/12 Khan Abdul Gaffar Khan Road, Opp. Bandra Worli Sea Link, Mumbai, India (nabindia.org.in) within a period of two weeks from the day a copy of this order is available.

32. We also issue a further direction that in so far as the conduct of these officers in discharge of their official duties and in the light of the observations as made by us, is concerned, it be scrutinized and considered at the appropriate level by the Ministry, and in that regard, an appropriate decision be taken in the interest of better administration and implementation of the IT Act.

33. Petition is disposed of in the aforesaid terms.

(ADVAIT M. SETHNA, J.) (G. S. KULKARNI , J.)

This order is corrected as per the speaking to the minutes order dated 7th January 2025.