REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2200 OF 2022

Vishal Ashwin Patel ..Appellant (S)

Versus

Assistant Commissioner of Income Tax Circle 25(3) & Ors. ..Respondent (S)

With

CIVIL APPEAL NO. 2201 OF 2022

With

CIVIL APPEAL NO. 2202 OF 2022

With

CIVIL APPEAL NO. 2203 OF 2022

J U D G M E N T

M. R. Shah, J.

1. Feeling aggrieved and dissatisfied with the impugned orders passed by the High Court of Judicature at Bombay in Writ Petitions Nos. 3209/2019, 3150/2019, 3208/2019 and 3137/2019, by which the Division Bench of the High

Court has dismissed the said writ petitions in which the appellants herein – original writ petitioners challenged the reopening of the assessment/re-assessment proceedings, the original writ petitioners have preferred the present appeals.

2. We have heard Shri Devendra Jain, learned counsel appearing on behalf of the respective appellants and Shri Balbir Singh, learned ASG appearing on behalf of the Revenue. We have gone through the respective orders passed by the High Court dismissing the writ petitions. Having gone through the orders passed by the High Court dismissing the writ petitions, it can be seen that the said orders are cryptic, non-speaking and non-reasoned orders. The order dated 11.01.2022 reads as under: -

> "1. We are not inclined to entertain this petition. At the same time, the Assessing Officer who will be different from the officer who had pass the order dated 10th October, 2019 rejecting the objections filed by petitioner for re-opening under Section 148 of the Income Tax Act, 1961 (the Act) shall permit petitioner to file further documents and case laws if adviced and also grant a personal hearing before passing the assessment order. The assessment order to be passed within 12 weeks from the date this order is uploaded. Petitioner shall be given atleast seven days advance notice about the date and time of the personal hearing.
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> 2. The Assessing Officer shall deal with all the submissions made by petitioner including those raised in his objections to

> the re-opening and pass detailed order in accordance with law. "

From the writ petitions produced on record, it appears that the reopening of the assessment under Section 148 of the Income Tax Act has been challenged on a number of grounds. None of the grounds raised in the writ petitions has been dealt with and/or considered by the High Court on merits. There is no discussion at all on any of the grounds raised in the writ petitions. The Division Bench of the High Court has dismissed the writ petitions in a most casual manner which is unsustainable. Except stating that 'we are not inclined to entertain writ petition', nothing further has been stated by the High Court giving reasons for the disinclination to entertain the writ petitions.

2.1 The manner in which the High Court has dealt with and disposed of the writ petitions without passing any reasoned order is not appreciated by this Court. When a number of issues/grounds were raised in the writ petitions, it was the duty cast upon the court to deal with the same and thereafter, to pass a reasoned order. When the Constitution confers on the High Courts the power to

give relief it becomes the duty of the Courts to give such relief in appropriate cases and the Courts would be failing to perform their duty if relief is refused without adequate reasons.

2.2 The High Court in exercise of powers under Article 226 of the Constitution of India was required to have independently considered whether the question of reopening of the assessment could be raised in a writ petition and if so, whether it was justified or not.

2.3 While emphasising the necessity to pass a reasoned order, in the case of **Central Board of Trustees Vs. Indore Composite Private Limited, (2018) 8 SCC 443,** it is observed and held by this Court that the courts need to pass a reasoned order in every case which must contain the narration of the bare facts of the case of the parties to the lis, the issues arising in the case, the submissions urged by the parties, the legal principles applicable to the issues involved and the reasons in support of the findings on all the issues arising in the case and urged by the learned counsel for the parties in support of its conclusion.

It is further observed in the said decision that an order bereft of reasoning causes prejudice to the parties because it deprives them to know the reasons as to why one party has won and other has lost.

2.4 In the recent decision in the case of **Union Public Service Commission Vs. Bibhu Prasad Sarangi and Ors., (2021) 4 SCC 516**, while emphasising the reasons to be given by the High Court while exercising powers under Article 226 of the Constitution of India, it is observed and held by this Court that the reasons constitute the soul of judicial decision and how Judges communicate in their judgment is a defining characteristic of judicial process since quality of justice brings legitimacy to the judiciary. It is further observed that though statistics of disposal of cases is important of higher value is the intrinsic content of judgment. It is further observed that in exercise of powers under Article 226 the courts require to independently consider the issues involved.

3. Applying the law laid by this Court in the aforesaid decisions to the facts of the case on hand and the manner in which the High Court has disposed of the writ petitions, in the interest of sobriety, we may only note that the orders are bereft of reasoning as diverse grounds were urged/raised by the parties which ought to have been examined by the High Court in the first place and a clear finding was required to be recorded upon analysing the relevant documents.

4. Since we cannot countenance the manner in which the orders have been passed by the High Court which has compelled us to remand the matter to the High Court for deciding the writ petitions afresh on merits, we do so in light of the aforesaid observations.

5. In light of the foregoing discussion, we allow the present appeals and set aside the impugned orders passed by the High Court and remand the matters to the Division Bench of the High Court for deciding the writ petitions afresh in accordance with law, keeping in view our observations

made supra. We, however, make it clear that we have refrained from making any observation on merits of the controversy, having formed an opinion to remand the cases to the High Court only for the reasons mentioned above. The High Court would, therefore, decide the writ petitions, bearing in mind our observations made above, strictly in accordance with law.

With the above directions, the present appeals are accordingly allowed and the impugned orders are set aside. The matters are remanded to the High Court as aforesaid. No costs.

.....J.
(M. R. SHAH)

.....J.
(B.V. NAGARATHNA)

New Delhi,
March 28th 2022.

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