

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1641 OF 2018

Dulraj U. Jain

....Petitioner

V/s.

Assistant Commissioner of  
Income-Tax and Ors.

....Respondents

\* \* \* \* \*

Mr. Prakul Khurana a/w. Mr. Pankaj Jain i/by. P.D. Jain &  
Co., Advocate for the petitioner.

Mr. N.C. Mohanty, Advocate for the respondents.

**CORAM :-**

**M.S. SANKLECHA, &**

**SANDEEP K. SHINDE, JJ.**

**DATE :-**

**6TH JULY, 2018.**

**P.C. :-**

1. Heard. Rule.

2. This petition challenges notice dated 31st  
March, 2017 issued under Section 148 of the Income-Tax  
Act, 1961 seeking to re-open the assessment for the

Assessment Year 2010-11. The assessment was earlier completed by way of intimation under Section 143(1) of the Act. The reasons to believe that income chargeable to tax has escaped assessment proceeds on information received from Deputy Director of Investigation. The information received from the Assistant Director of Income-Tax dated 24th March, 2017 referred to certain transactions as suspicious transactions and called upon the Assessing Officer to verify the transactions as there is a likelihood that income chargeable to tax has escaped assessment. The reasons in support of the impugned notice do not indicate any application of mind and/or further processing of the information to come to a reasonable belief that income chargeable to tax has escaped assessment. Infact, it proceeds on the basis that transactions are suspicious. Further, the reasons also do not specify, prima-facie, the quantum of tax which has escaped assessment but merely states that it would be atleast be Rs.1,00,000/-. Prima-facie, we are of the view that the reasons recorded do not indicate reasonable

belief of the Assessing Officer himself to issue the impugned notice. Thus, prima-facie, the impugned notice is without jurisdiction.

3. Accordingly, till the final disposal of this petition, there shall be interim stay of the impugned notice dated 31st March, 2017 issued under Section 148 of the Act.

4. Mr. Mohanty, Learned Counsel appearing for the respondent waives service of notice.

(SANDEEP K. SHINDE, J)

(M.S. SANKLECHA, J)

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