

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

WRIT PETITION NO. 2627 OF 2016

M/s. Coronation Agro Industries Ltd.

.. Petitioner

v/s.

Deputy Commissioner of Income-Tax  
Circle-6(2)(1)

.. Respondent

Mr. S.C. Tiwari a/w Ms. Rutuja Pawar for the petitioner

Mr. A.R. Malhotra a/w Mr. N.A. Kazi for the respondent

**CORAM : M.S. SANKLECHA &  
A.K. MENON, J.J.**

**DATED : 23<sup>rd</sup> NOVEMBER, 2016.**

**PC.**

1. Heard. Rule.

2. This petition challenges notice dated 31<sup>st</sup> March, 2016 issued under Section 148 of the Income Tax Act, 1961. The impugned notice seeks to reopen the assessment for Assessment Year 2009-10. The regular assessment proceedings were completed on 28<sup>th</sup> December, 2011 under Section 143(3) of the Act.

3. The reasons in support of the impugned notice relies upon the information received from the Principal Director of Income Tax that the petitioner has benefited from a client code modification by which a

profit of Rs.22.50 lakhs was shifted out by the petitioner's broker, resulting in reduction of the petitioner's taxable income. The only basis for forming the belief is the report from the Principal Director of Income Tax and the application of mind to the report of the Assessing Officer along with the record available with him. This information and application of mind has led the Assessing Officer to form a reasonable belief that there is not only an escapement of income but there has been failure to truly and fully disclose all material facts and information as the *modus operandi* of shifting profits was not known to the Revenue as not disclosed by the petitioner when the Assessing Officer passed the order in regular assessment proceedings.

4. We note that the reasons in support of the impugned notice accept the fact that as a matter of regular business practice, a broker in the stock exchange makes modifications in the client code on sale and / or purchase of any securities, after the trading is over so as to rectify any error which may have occurred while punching the orders. The reasons do not indicate the basis for the Assessing Officer to come to reasonable belief that there has been any escapement of income on the ground that the modifications done in the client code was not on account of a genuine error, originally occurred while punching the

trade. The material available is that there is a client code modification done by the Assessee's broker but there is no link from there to conclude that it was done to escape assessment of a part of its income. *Prima facie*, this appears to be a case of reason to suspect and not reason to believe that income chargeable to tax has escaped assessment.

5. In the above view, *prima facie*, we are of the view that the impugned notice is without jurisdiction as it lacks reason to believe that income chargeable to tax has escaped assessment.

6. Accordingly, there shall be interim relief in terms of prayer clause (b).

(A.K. MENON, J.)

(M.S. SANKLECHA, J.)