

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

WRIT PETITION NO. 2199 OF 2021

Raimaladitya Textile Pvt. Ltd.

....Petitioner

V/s.

Income Tax Officer 4(3)(1), Mumbai
and Ors.

...Respondents

Mr. Rahul Hakani a/w Mr. Ajay Singh i/b Mr. Sameer G. Dalal for Petitioner.
Mr. Anil C. Singh, ASG a/w Mr. Sham V. Walve for Respondents-Revenue.

CORAM : K.R. SHRIRAM &
N. R. BORKAR, JJ.
DATED : 22nd MARCH, 2022

PC. :

1. The pleadings in the petition are complete and therefore we decided to consider the petition finally at this stage itself.

2. Petitioner has approached this court aggrieved by a notice dated 31st March, 2021 issued under Section 148 of the Income Tax Act, 1961 (the Act) where the Jurisdictional Assessing Officer (JAO) has asserted that he has reasons to believe that petitioner's income chargeable to tax for A.Y. 2013-14 has escaped assessment within the meaning of Section 147 of the Act. The reasons recorded for coming to such a belief can be found in a letter dated 2nd June, 2021 addressed by the JAO to petitioner. The reasons read as under :

*Issues as per reasons recorded for reopening
The Income Tax Department has collected information
about taxpayers from various sources such as Annual*

Information Return (AIR), Central Information Branch (CIB), Tax Deduction at Source (TDS) Statement and information uploaded by Investigation Wings/Central Circle/I & CI on Insight Portal.

As per the information summary available in Insight Portal, the following information relating to Assessment Year 2013-14 pertains to the assessee company.

<i>Sr. No.</i>	<i>Source of PAN</i>	<i>Source of PAN Name</i>	<i>Information F.Y.</i>	<i>Information Type</i>	<i>Information Value</i>
1	AABCR3382E	RAIMALADITYA TEXTILE PRIVATE LIMITED	2012-13	Loan Taken	40,88,06,800/-

1. As the above mentioned bogus entities managed, controlled and operated by M/s. RAIMALADITYA TEXTILE PRIVATE LIMITED for providing bogus accommodation entries, hence, all the transactions entered into between the above mentioned entities and the assessee/beneficiary are bogus accommodation entries in nature.

3. The allegations in the reasons recorded are that as per information summary available to Revenue there is company by the name Raimaladitya Textile Pvt. Ltd., from whom bogus loan has been taken in F.Y. 2012-13 in the sum of Rs.40,88,06,800/- and the said Raimaladitya Textile Pvt. Ltd., provided bogus accommodation entries and hence all the transactions entered into between the said entity and petitioner are bogus accommodation entries in nature. But what is strange is petitioner itself is Raimaladitya Textile Pvt. Ltd., the assessee. It is incomprehensible that petitioner would provide bogus accommodation entries to itself by loan having been given to itself which amount therefore has escaped assessment.

4. Learned ASG submitted that there was a mistake. If that was a mistake that could certainly not be the reason to believe that

petitioner's income has escaped assessment. We further note that approval under Section 151 of the Act also has been given on the same reasons, which would also indicate total non application of mind by not only the JAO but also by the Revenue Head who had recommended the case to the Principal CIT and also Principal CIT himself. One thing is evident that the approval is granted in a mechanical way without applying their mind.

5. In the circumstances, petition is allowed in terms of prayer clause – (a) and (b) which reads as under :

(a) that this Hon'ble Court may be pleased to issue under Article 226 of the Constitution of India an appropriate direction, order or a writ, calling for the records of the case and after satisfying itself as to the legality thereof quash and set aside the notice dated 31.03.2021 issued by the Respondent No.1 under section 148 of the Income Tax Act, 1961, being Ex.- J hereto;

(b) that this Hon'ble Court may be pleased to issue under Article 226 of the Constitution of India an appropriate direction, order or a writ, calling for the records of the case and after satisfying itself as to the legality thereof quash and set aside the order passed by the Respondent No.1 disposing off the objections raised by the Petitioner against the reopening of assessment under section 147 of the Income Tax Act, 1961 dated 26/08/2021, being Ex.- P' hereto.

6. Petition disposed with no order as to costs.

(N. R. BORKAR, J.)

(K.R. SHRIRAM, J.)