

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 24675 of 2022**

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NIRMA LIMITED
Versus
ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 3(1)(1),
AHMEDABAD

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Appearance:
MR B S SOPARKAR(6851) for the Petitioner(s) No. 1
for the Respondent(s) No. 1,2

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CORAM: HONOURABLE MS. JUSTICE SONIA GOKANI
and
HONOURABLE MRS. JUSTICE MAUNA M. BHATT

Date : 07/12/2022

ORAL ORDER
(PER : HONOURABLE MS. JUSTICE SONIA GOKANI)

1. Petitioner is before this Court seeking to challenge the notice issued under section 153C of the Income Tax Act dated 31.03.2022 directing the petitioner to furnish the return of income for the Assessment Year 2008-09 to Assessment Year 2011-12 on the ground that this is contrary to the law and without jurisdiction. According to the petitioner the search under section 132 of the Income Tax Act shall continue in case of SSS Group of companies on 06.03.2018. Based on these documents, notice came to be issued

on 31.03.2022. Satisfaction note dated 04.05.2022 to 24.05.2022 recorded by the Assessing Officer was not supplied to the petitioner.

2. The petitioner, therefore, is before this Court questioning these notices relying on the decision of the Delhi High Court rendered in the case of ***Commissioner of Income Tax vs. RRJ Securities, (2015) 62 Taxmann.com 391***, urging that it will be not the date of search but the date on which the satisfaction note has been recorded by the officer concerned, which shall need to be regarded. The second issue raised is of jurisdiction of the officer concerned in issuing notice under section 143(2) of the Act.

3. The prayers sought for are as follows:

“7. The Petitioner, therefore, prays that this Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or a writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, direction or order and be pleased to:

(a) quash and set aside the impugned notices dated 31.03.2022 for the A.Y.2008-09, AY 2009-10, AY 2010-11 and AY 2011-12 at Annexure-'A (Colly)' to this Petition;

(b) quash and set aside the impugned notices dated 15.11.2022 for the A.Y. 2008-09, AY 2009-10, AY 2010-11 and AY 2011-12 at Annexure-'B(Colly)' to this Petition;

(c) quash and set aside the impugned order dated 11.08.2022 at Annexure-'G2' to this Petition;

(d) pending the admission, hearing and final disposal of this petition, to stay implementation and operation of the notices at Annexure-'A(Colly)' and 'B(Colly)' to this petition and stay further proceedings for the A.Y.2008-09, AY 2009-10, AY 2010-11 and AY 2011-12.

(e) any other and further relief deemed just and proper be granted in the interest of justice;

(f) to provide for the cost of this petition."

4. We have heard Mr.B.S. Soparkar, learned advocate for the petitioner.

5. Issue notice returnable on 20.12.2022.

6. Let the proceedings of assessment continue with the cooperation of the petitioner, no final order of assessment shall be passed till the returnable date.

7. Admittedly, the service through e-mail is permitted to the petitioner.

(MS. SONIA GOKANI, J.)

(MAUNA M. BHATT,J)

SUDHIR