

YUGANDHARA
SHARAD
PATIL

Digitally signed
by
YUGANDHARA
SHARAD PATIL
Date: 2022.09.28
11:05:52 +0530

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

WRIT PETITION(ST) NO. 29922 OF 2022

Anil Dhirajlal Ambani

...Petitioner

Versus

Union Of India And 2 Ors.

...Respondents)

Mr.Rafiq Dada, Senior Counsel a/w Mr. Ravi Kadam Senior Counsel a/w Mr. Prateek Seksaria a/w Mrs. Komal Khushalani a/w Mr. Mufaddal Paperwala i/b Mrs. Crawford Baley and Co. for the Petitioner.

Mr. Akhileshkumar Sharma for the Respondent Nos. 2 and 3.

CORAM : S.V. GANGAPURWALA &

R.N. LADDHA, J.J.

DATED : 26th SEPTEMBER 2022

P.C. :-

1. We have heard Mr. Rafiq Dada, learned senior counsel for the petitioner.

2. Learned senior advocate submits that the impugned show cause notice is issued under the provisions of Sections 50 and 51 of the Black Money(Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015. the Learned senior advocate submits that the basis for issuance of show cause notice is the assessment made against the petitioner for the assessment year 2019-2020, by the Deputy Director, Income

Tax (Inv) Unit 8(4). The said order is subject matter of appeal before Commissioner of Income Tax (Appeal). The same is pending. In view of that it would be premature at this stage to issue show cause notice on the basis of said assessment order. Pending the said civil litigation, respondents cannot take criminal action. In view of that, learned senior counsel submits that the same deserves to be stayed. Reference is made to the Judgments of Apex Court in case of *Commissioner of Income Tax Vs. Bhupen Champak Lal Dalal and Anr. (2001) 3 SCC 459* and in case of *Tukaram Chavan and Anr. Vs. Machindra Yeshwant Patil and Anr. (2001) 3 SCC 33*.

3. Learned senior counsel further submits that the Act came into force in the year 2015. The transactions alleged are of the assessment year 2006 and 2010-11. The criminal provisions cannot have retrospective effect. Reliance is placed on Article 20 of the Constitution of India.

4. Learned senior counsel further submits that this issue of act cannot have retrospective application, is pending for consideration, in various High Courts and in this Court. This

Court has admitted Writ Petition bearing Writ Petition No. 1300 of 2018. Similar issue is also for consideration in Writ Petition No. 965 of 2019. Details of the cases pending before this High Court and other High Courts are mentioned in paragraph no. 16 of memo of Writ Petition.

5. Learned senior counsel further submits that the petitioner has filed reply to the said show cause notice and also sought documents on which the respondents intends to rely upon.

7. Mr. Akhileshkumar Sharma, learned counsel for respondent nos. 2 and 3 seeks time to make submissions and/or file affidavit upto 17/11/2022.

8. Place the matter on 17th November 2022.

9. As the time is sought by respondent nos. 2 and 3, till the next date, respondent nos. 2 and 3 shall not proceed further pursuant to the impugned show cause notice.

(R.N.LADDHA, J.)

(S.V. GANGAPURWALA, J.)