Shell India Markets Private Limited vs The Deputy Commissioner Of Income Tax,

ID: F2J-C-2210 **Court:** Bombay High Court
Case: WRIT PETITION (L) NO. 29481 OF 2025 **Date:** 2025-10-13

[Cites 3, Cited by 0]

Bombay High Court Shell India Markets Private Limited vs The Deputy Commissioner Of Income Tax, ... on 13 October, 2025 Author: B. P. Colabawalla Bench: B. P. Colabawalla 112.wpl.29481.25.doc

IN THE HIGH COURT OF JUDICATURE AT BOMBAY ORDINARY ORIGINAL CIVIL JURISDICTION WRIT PETITION (L) NO. 29481 OF 2025

Shell India Markets Pvt Ltd .. Petitioner Versus DCIT-3(4), Mumbai & Anr .. Respondents

Mr. J. D. Mistry, Senior Advocate, with Mr. Vishal Kalra, Snigdha Gautam, Sheeja John, Anoushka John i/b M. P. Savla & Co, Advocates for the Petitioner.

Mr. Arjun Gupta, Advocates for the Respondents.

ANJALI by Digitally signed ANJALI TUSHAR CORAM: B. P. COLABAWALLA & TUSHAR ASWALE Date: ASWALE 2025.10.15 11:26:30 +0530 AMIT S. JAMSANDEKAR, JJ.

DATE: OCTOBER 13, 2025

P. C.

1. Mentioned. Taken out of turn.

2. The above Writ Petition is filed seeking to quash and set aside the impugned Notice dated 17th July 2025 issued under Section 143 (2) as well as the Notice dated 26 th August 2025 issued under Section 142 (1) of the Income Tax Act, 1961 ("I. T. Act").

3. The Assessment Year in question is 2007-08. Initially, the assessment proceedings were initiated by the Revenue against a company Page 1 of 5 OCTOBER 13, 2025 Aswale ::: Uploaded on - 15/10/2025 ::: Downloaded on - 15/10/2025 21:15:18 ::: 112.wpl.29481.25.doc called "Shell Technology India Pvt Ltd". This was done on 19 th November 2010 by issuing a Notice under Section 143 (2) in the name of "Shell Technology India Pvt Ltd". However, on the date when the said 143 (2) Notice was issued, "Shell Technology India Pvt Ltd" was not in existence as the same had already been amalgamated with the Petitioner. In fact, on 21 st September 2010 a submission was filed with the Assessing Officer intimating him about the amalgamation along with the relevant documents.

4. Since the Notice under Section 143 (2) was issued against a non existing entity ("Shell Technology India Pvt Ltd"), finally this Court by its judgment and order dated 27th March 2025 [in Income Tax Appeal No.2384 of 2018] approved the order passed by the Tribunal setting aside the Notice issued under Section 143 (2). Whilst doing so, this Court clarified that the Appeal is dismissed only on the ground that the Notice and the Assessment Order has been passed in the name of the transferor company (Shell Technology India Pvt Ltd), by accepting the submission of the Respondent - Assessee that the orders could not have been made against the non-existing company. The High Court opined that the result and consequence of this submission was that the Assessment Order and the Notice ought to have been issued in the name of the transferee company and not the transferor company. Accepting the same, this Court clarified that the order dated 27 th Page 2 of 5 OCTOBER 13, 2025 Aswale ::: Uploaded on - 15/10/2025 ::: Downloaded on - 15/10/2025 21:15:18 ::: 112.wpl.29481.25.doc March 2025 would not preclude the Appellant/Revenue from initiating fresh proceedings against the transferee company in accordance with law for assessing the income in the hands of the transferee company. It is on the basis of this order, that the impugned notices have been issued.

5. According to Mr. Mistry, the learned Senior Counsel appearing for the Petitioner, the impugned Notice is issued beyond the period of limitation prescribed in the proviso to Section 143 (2) of the I. T. Act. This is more-so in the facts of the present case, when no Notice under Section 148 for reopening the assessment has been issued to the Petitioner. Mr. Mistry pointed out that even though the Notice issued under Section 142 (1) refers to a purported notice issued under Section 148, no such Notice has ever been served upon the Petitioner. In any event, it was the submission of Mr. Mistry that the provisions of Section 143 (2) are not attracted because the said Section stipulates that the Assessing Officer can only issue Notice under the said Section after being satisfied that it is expedient or necessary to scrutinize the return of the Assessee. According to Mr. Mistry, no such satisfaction as prescribed by the law has been provided by the Respondents in the present case. According to Mr. Mistry, the impugned Notice has been issued on a complete misreading of the judgment dated 27 th March 2025. In the said judgment, according to Mr. Mistry, no directions or findings have been given Page 3 of 5 OCTOBER 13, 2025 Aswale ::: Uploaded on - 15/10/2025 ::: Downloaded on - 15/10/2025 21:15:18 ::: 112.wpl.29481.25.doc by this Court allowing the Respondents to bypass the limitation provided in the I. T. Act. For all these reasons, it is contended that the impugned Notices issued under Section 143 (2) as well as 142 (1) are bad and ought to be set aside.

6. Mr. Gupta, the learned Counsel appearing on behalf of the Revenue sought three weeks time to file an affidavit in reply to the above Writ Petition.

7. Acceding to his request, we direct that the affidavit in reply shall be filed on or before 3rd November 2025 and a copy of the same shall be served on the advocates for the Petitioner.

8. We now place the matter on 10th November 2025.

9. As far as ad-interim relief is concerned, atleast prima facie, we find substance in the arguments canvassed by Mr. Mistry. When this Court passed its judgment and order dated 27 th March 2025 [in Income Tax Appeal No.2381 of 2018], this Court permitted the Revenue to initiate fresh proceedings against the transferee company (the Petitioner) in accordance with law for assessing the income in the hands of the transferee company. Page 4 of 5 OCTOBER 13, 2025 Aswale ::: Uploaded on - 15/10/2025 ::: Downloaded on - 15/10/2025 21:15:18 ::: 112.wpl.29481.25.doc Atleast

prima facie, we do not find that the said judgment and order in any way bypassed the period of limitation prescribed under the proviso to Section 143 (2), or for that matter, any other provisions of the I. T. Act.

10. In these circumstances, we are of the opinion that the Petitioner has made out a strong prima facie case for ad-interim relief. Accordingly, there will be ad-interim relief in terms of prayer clause (d) which reads thus:-

"d) that pending the hearing and final disposal of this Petition, this Hon'ble Court may be pleased to stay the implementation and operation of the impugned notice(s) dated 17 July 2025 issued under Section 143 (2) of the Act (Exhibit-H) and dated 26 August 2025 issued under section 142 (1) of the Act (Exhibit-J) and the consequent proceedings thereof for AY 2007-08."

11. Stand over to 10th November 2025.

12. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order. [AMIT S. JAMSANDEKAR, J.] [B. P. COLABAWALLA, J.] Page 5 of 5 OCTOBER 13, 2025 Aswale