

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D.B. Civil Writ Petition No. 7495/2022

Maya Rathi W/o Shri Navneet Rathi

----Petitioner

Versus

Income Tax Officer

----Respondent

For Petitioner(s) : Mr. Vedant Agrawal, Adv.

For Respondent(s) : Mr. R.D. Rastogi, ASG with Mr. Devesh Yadav, Adv., Mr. Aditya Singh, Adv. and Mr. Rajat Choudhary, Adv. Ms. Parinitoo Jain, Adv., through VC

**HON'BLE THE ACTING CHIEF JUSTICE MR. MANINDRA MOHAN SHRIVASTAVA
HON'BLE MR. JUSTICE SAMEER JAIN**

Order

23/05/2022

Heard.

We find that the validity of first proviso to Section 148 of Income Tax Act, 1961 has been assailed on the ground that the explanation "income chargeable to tax has escaped assessment", has been restricted in its meaning under the explanation-1 to that provisions.

Learned counsel for the petitioner submits that such an explanation completely restricts the requirement of reasons to believe that income chargeable to tax has escaped assessment and therefore the provision is unconstitutional and against the

settled judicial principle enunciated in several judicial pronouncements.

Learned Additional Solicitor General, Mr. R.D. Rastogi and Ms. Parinitoo Jain, Adv. appearing for respective respondents take

notice and seek time to file reply to the main petition as well as application for interim relief.

Taking into consideration that the challenge is made to the legislature itself, before passing any interim order this Court would require the respondents particularly Union of India to make submissions after filing of reply. Therefore, we are not inclined to pass order of stay right now.

List the matter on 04.07.2022 for consideration on stay application.


(SAMEER JAIN),J


(MANINDRA MOHAN SHRIVASTAVA),ACTING CJ

JKP/Arun/20



