

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2446 OF 2021**

Janak Bhogilal Raja

....Petitioner

V/s.

Income Tax Officer, Ward – 2 (1),
Thane and Ors.

....Respondents

Mr. K. Gopal i/b. Ms. Neha Paranjpe for petitioner.
Mr. Sham V. Walve for respondents-Revenue.

**CORAM : K.R. SHRIRAM &
AMIT B. BORKAR, JJ.
DATED : 4th DECEMBER 2021**

P.C. :

1 Petitioner is primarily aggrieved by an order dated 30th March 2021 passed by the Principal Commissioner of Income Tax (PCIT), Thane 1 under Section 264 of the Income Tax Act, 1961 (the said Act). Petitioner was given notice on 5th March 2021 to appear on 9th March 2021 before PCIT. Petitioner did not attend and the order impugned in the petition came to be passed on 30th March 2021.

2 Mr. Gopal, counsel for petitioner states that petitioner's Chartered Accountant, who was engaged to attend to the matter, had made a request for an adjournment on 8th March 2021 requesting the hearing be stood over to 23rd March 2021. A snapshot of the e-proceeding seeking adjournment from the website of the Income Tax Department is annexed at Exhibit "O" to the petition. It is petitioner's case that the Chartered Accountant, who was to attend to the matter, was quarantined at his

residence in Rajkot with symptoms for COVID 19 and was later tested positive on 27th March 2021. There are averments to this effect in the petition.

3 We are satisfied that petitioner was, therefore, prevented by sufficient cause in not appearing for the hearing.

4 In the circumstances, the order dated 30th March 2021 is hereby quashed and set aside. The PCIT shall consider the condonation of delay application, which is already filed by petitioner, on its own merits and he may pass such order as he deems fit on the condonation of delay application as well as the application filed under Section 264 of the said Act in accordance with law.

5 We clarify that we have not made any observations on the merits of the matter. All rights and contentions of the parties are kept open.

6 Petition disposed accordingly.

(AMIT B. BORKAR, J.)

(K.R. SHRIRAM, J.)