IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2346 OF 2021

Shweta Sunil Bahira ….Petitioner

V/s.

The Principal Commissioner of Income Tax & Ors. ….Respondents

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Mr. Mohammed Zain Khan for petitioner.
Mr. Sham V. Walve for respondents.

CORAM : K.R. SHRIRAM &
N.R. BORKAR, JJ.
DATED : 13th JANUARY 2022

P.C. :

1 We have considered the petition and one of the prayer in the petition is for writ of mandamus or any other writ, order or direction to respondents to refund the amount of Rs.8,07,311/- which petitioner had paid under the Income Declaration Scheme 2016 (the IDS). According to petitioner, petitioner had paid an amount of Rs.8,07,311/- but was unable to pay the balance amount under the Scheme within the time prescribed.

2 As per the Scheme, if the declarant fails to pay the tax, surchage and penalty in respect of the declaration made under Section 183 on or before the date specified under sub-section (1), the declaration filed by him shall be deemed never to have been made under this Scheme. Mr. Khan, therefore, requests that respondents be directed to refund the amount paid since as per the IDS, the declaration filed by petitioner shall be deemed never to have been made under the Scheme.

3 We do not find anywhere in the petition even an averment that such an application for refund has been made by petitioner. Mr. Khan also agrees that such an application was not made and therefore, to that extent, petition is prematured.

4 Petition dismissed as withdrawn.

5 Petitioner may apply to the concerned authority for refund, who shall consider the application in accordance with law and also consider while considering the application, a judgment of this Court in ***Pinnacle Vastunirman Private Limited V/s. The Union of India and Ors.***[1].

(N.R. BORKAR, J.) **(K.R. SHRIRAM, J.)**

1. (2021) 438 ITR 27 (Bom.)