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

WRIT PETITION NO. 751 OF 2021

Girish Raghvan ...Petitioner
Versus
The Principal CIT - 17 & anr. ...Respondents

Mr. Devendra Jain , for the Petitioner.
Mr. Sham Walve, for the Respondents.

CORAM: K. R. SHRIRAM &
N. J. JAMADAR, JJ
DATED: 1st FEBRUARY, 2022
(Video Conferencing)

Order:-

1. This is a petition impugning an order dated 17th March, 2020 passed by respondent no.1 rejecting the application filed by petitioner under Section 264 of the Income Tax Act, 1961 (the said Act). Under Section 264 of the said Act, in the case of any order other than an order to which Section 263 applies passed by an authority subordinate to him, a Principal Commissioner may, either of his own motion or on an application by the assessee for revision, call for the record of any proceeding under this Act in which any such order has been passed and may make such inquiry or cause such inquiry to be made and, may pass such order thereon, not being an order prejudicial to the

Order is corrected as per speaking to the minutes of order dated 8/2/2022.

assessee, as he thinks fit.

2. Respondent no.1 has dismissed the application filed by petitioner on the ground that the same was not maintainable as an appeal lies against the order against which the application has been made for revision and assessee has not also waived their right of appeal before the Commissioner of Income Tax (Appeals), as reply under Section 264 (4) of the said Act.

3. An identical order was passed on the same day as order impugned and we are informed by the same gentleman, which came to be decided by this Court in ***Aafreen Fatima Fazal Abbas Sayed vs. Assistant Commissioner of Income Tax and another***[1] where the Division Bench of this Court set aside the order impugned and remanded back the matter for *denovo* consideration.

4. Mr. Jain states that the facts of this case will also be covered by the said judgment. Mr. Walve, as an officer of this Court, states that he had appeared in that matter and concurs with the statement made by Mr. Jain. In the circumstances, the order dated 17th March, 2020 is quashed and set aside.

5. Respondent no.1 is directed to consider the application that was filed by petitioner under Section 264 of the said Act

1 [2021] 127 taxmann.com 819 (Bom.).

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and pass such orders on merit as he deems fit.

6. We will clarify that we have not made any observation on the merits of the case.

7. Petition disposed with no order as to costs.

[N. J. JAMADAR, J.] **[K. R. SHRIRAM, J.]**

Order is corrected as per speaking to the minutes of order dated 8/2/2022.