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

**WRIT PETITION NO.560 OF 2021**

Bhavesh Mohan Lakhwani ….Petitioner

V/s.

Pr. Commissioner of Income Tax -12 & Anr. ….Respondents

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Mr. Ajay R. Singh for petitioner.
Mr. Sham V. Walve for respondents – Revenue.

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**CORAM : K.R. SHRIRAM &**
**N.J. JAMADAR, JJ.**
**DATED : 31st JANUARY 2022**

**P.C. :**

1 We have heard the counsels and also considered the petition and documents annexed thereto. Petitioner is impugning an order passed on 27th February 2020 by Principal Commissioner of Income Tax – 12, Mumbai under Section 264 of the Income Tax Act, 1961 (the said Act). Petitioner had filed application under Section 264 of the said Act against an order dated 28th September 2018 passed by the Income Tax Officer, Ward - 12 (3) (3), Mumbai under Section 179(1) of the said Act.

2 We have to note that both the orders under Section 179(1) and Section 264 of the said Act are without giving any reasons. In the order passed under Section 179(1) of the said Act, the Income Tax Officer simply says that there was reply received from petitioner but the same is not being accepted. In the order passed under Section 264 of the said Act, the Principal Commissioner of Income Tax has not even dealt with the submissions made by petitioner.

3 In the circumstances, we set aside both the orders, i.e., order dated 27th February 2020 passed under Section 264 of the said Act and order dated 28th September 2018 passed under Section 179(1) of the said Act.

4 Respondent no.2 to consider afresh the response filed by petitioner in his reply dated 19th September 2018 and pass an order under Section 179(1) of the said Act in accordance with law. In the order, respondent no.2 shall deal with all submissions of petitioner. Before any order is passed, petitioner shall be given a personal hearing and notice of personal hearing shall be communicated to petitioner atleast two weeks in advance. If respondent wishes to rely on any judgments or order passed by any Court or Tribunal, he shall provide a copy thereof to petitioner and give him an opportunity to deal with those judgments or distinguish those judgments and those submissions of petitioner shall also be dealt with in the assessment order.

5 Petition accordingly disposed.

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