IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14117 OF 2023

Vaidyanathan Natarajn ...Petitioner
Versus
Pr. Commissioner Of Income Tax 1 And Ors ...Respondents

Mr. Vasudev Ginde i/b Mr. Kumar Kale for Petitioner.
Ms Samiksha Kanani i/b Mr. Ajeet Manwani for Respondents.

CORAM : K. R. SHRIRAM &
Dr. NEELA GOKHALE, JJ.
DATED : 4th DECEMBER 2023

P.C. :

1 After the petition was heard for sometime, Ms Kanani, as an officer of this court, in fairness agreed with the court that Section 264 of the Income Tax Act 1961 (the Act) confers wide jurisdiction on the Commissioner. Proceedings under Section 264 of the Act are intended to meet the situation faced by an aggrieved assessee who is unable to approach the appellate authority for relief and has no other alternate remedy available under the Act. The Commissioner is bound to apply his mind to the question and it would even cover situations where the assessee because of an error has not put forth a legitimate claim at the time of filing the return and the error is subsequently discovered and is raised for the first time in an application under Section 264 of the Act (***Smita Rohit Gupta V/s. Principal Commissioner of Income Tax-1 & Ors.***[1]). Ms Kanani states that the

1 2023 SCC Online Bom 1861

impugned order dated 31st March 2023 be quashed and set aside and remand the matter for consideration on the merits of the application under Section 264 of the Act.

2 In view of the above, the impugned order dated 31st March 2023 is hereby quashed and set aside. Delay is condoned. The matter is remanded to respondent no.1 for denovo consideration on merits.

3 Before passing any order, respondent no.1 shall give a personal hearing to petitioner, notice whereof shall be communicated atleast 7 working days in advance. The order to be passed shall be a reasoned order dealing with every submission of petitioner. Since, petitioner is over 81 years old, respondent no.1 is directed to dispose the application under Section 264 of the Act on or before 31st January 2024.

4 Petition disposed.

5 We clarify that we have not expressed any opinion on the merits of the matter.

(Dr. NEELA GOKHALE, J.) **(K. R. SHRIRAM, J.)**