IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2758 OF 2024

Gopal Extrusions Pvt. Ltd. .. Petitioner

versus

The Income Tax Officer .. Respondent

Mr. R. R. Chandak, Advocate for the Petitioner.
Mrs. Kalpalata Patil Bharaswadkar, Advocate for the Respondent.

CORAM : RAVINDRA V. GHUGE AND R. M. JOSHI, JJ.

DATE : 3rd APRIL, 2024.

PER COURT :

1. This is a motion for speaking to the minutes of the order dated 13th March, 2024.

2. It is pointed out that in paragraph No. 5(b) of the order, the number of the Appeal is wrongly typed as 1663 instead of 1633.

3. The error be corrected. Corrected order be uploaded.

(R. M. JOSHI)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE

dyb

The order dated 13th March, 2024 stands corrected and uploaded in view of the order dated 3rd April, 2024 passed on the motion of Speaking to the Minutes of the Order.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2758 OF 2024

GOPAL EXTRUSIONS PVT. LTD.
VERSUS
THE INCOME TAX OFFICER

…
Shri Raviraj R. Chandak, Advocate for the Petitioner.
Mrs. Kalpalata Patil Bharaswadkar, Advocate for the sole Respondent.
...

CORAM : RAVINDRA V. GHUGE
&
R.M. JOSHI, JJ.

DATE :- 13th March, 2024

<u>Per Court :-</u>

1. A peculiar issue is raised before this Court.

2. The Petitioner preferred an Income Tax Appeal No.9/2022 before this Court. By order dated 22.02.2022, the appeal was disposed off with the following directions:-

> "*[I] The impugned order is quashed and set aside and the matter is relegated before the Tribunal on condition that the Appellant deposits Rs.25,000/- (Rs. Twenty Five Thousand only) with the Income Tax Officer, Ward-1(2), Jalgaon within a period of two (02) weeks from today.*
>
> *[II] The parties shall appear before the Tribunal 16.03.2022.*

[III] The Appellant shall produce the receipt of the deposit of costs of Rs.25,000/- (Rs. Twenty Five Thousand only) with the Respondent / Sole before the Tribunal.

[IV] The Tribunal shall, thereafter, decide the Appeal on it's own merits.

[V] As the date of appearance has been given by this Court, it is not necessary for the Tribunal to issue fresh notice to the parties.

9. The Writ Petition accordingly stands disposed of."

3. The undisputed aspect in this matter is that the Petitioner deposited the said amount of Rs.25,000/- on 03.03.2022. However, in the appeal that was remitted, the Income Tax Appellate Tribunal passed an order on 05.12.2022 and recorded in paragraphs 7 and 8 that, as the amount has been deposited under the head "Basic Tax", there is non-compliance of the order of this Court and, therefore, the appeal of the Petitioner was dismissed.

4. The learned Advocate for the Respondent/ Department submits that now that amount has been deposited under the head "Basic Tax", the said amount can be utilized in favour of the Petitioner any time in future, as and when the occasion arises. The Department would make a note of the said deposit under the head of Basic Tax and the Petitioner would be given advantage of the deposit of the said amount. The learned

Advocate further suggests that the amount of Rs.25,000/- be deposited in this Court and the same can be utilized for a public cause. The learned advocate for the IT department submits that the cost amount may be utilised as the Court may deem appropriate.

5. In view of the above, **this Writ Petition is partly allowed** with the following directions:-

(a) The Petitioner shall deposit Rs.25,000/- (Rupees Twenty Five Thousand) in this Court within 07 days. The Registry shall transmit the said amount to the Medical Officer, High Court Dispensary, Aurangabad.

(b) The order dated 05.12.2022 passed by the Income Tax Appellate Tribunal shall stand set aside and Appeal No.ITA No.**1633**/PUN/2017/ Assessment Year 2008-09, shall stand remitted to the Income Tax Appellate Tribunal “A” Bench at Pune.

(c) The Petitioner shall appear before the said Tribunal on 01.04.2024 and a notice of hearing need not be issued. Further hearing in the matter to take shape in accordance law.

kps **(R.M. JOSHI, J.)** **(RAVINDRA V. GHUGE, J.)**