IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5463 OF 2025

Ajit Scanning & Diagnostic Centre Pvt. Ltd., .. Petitioner

Versus

The Principal Commissioner of
Income Tax-1, Thane & Other .. Respondents

Mr. Vasudev Ginde i/b. Mr. Kumar Kale, Advocates for the Petitioner.

Mr. Akhileshwar Sharma, Advocate for the Respondents/Revenue.

CORAM: B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.

DATE: SEPTEMBER 23, 2025

P. C.

1. Rule. Respondents waive service. With consent of parties, Rule made returnable forthwith and heard finally.

2. In this Writ Petition, the Petitioner challenges the order under Section 187(3) of the Finance Act, 2016 ('FA Act') dated 15th March 2021 passed by the Respondent No. 1, rejecting the Petitioner's declaration made under the Income Declaration Scheme, 2016 ('IDS'). The Petitioner also challenges the notice issued under Section 148 of the Income Tax Act, 1961 ('IT Act') dated 31st March 2021 issued for A.Y.2017-18, the consequent

assessment order dated 29th March 2022 passed under Section 147 read with section 144B of the IT Act, the Notice of Demand dated 29th March 2022 issued under Section 156 of the IT Act, and the Show Cause Notice dated 29th March 2022 under Section 270A of the IT Act.

3. Briefly stated, the facts of the case are that the Petitioner had not filed its Return of Income for the A.Y. 2015-16 and A.Y. 2016-17. Therefore, in order to avail the benefit of the IDS, the Petitioner disclosed its income pertaining to these two years as undisclosed income under the IDS, and filed an application in Form No. 1 on 30th September 2016 before Respondent No. 1, declaring its total undisclosed income as Rs. 5,18,28,087/- [i.e. Rs. 2,35,88,314/- for A.Y. 2015-16 and Rs. 2,82,39,773/- for A.Y. 2016-17]. In the Form No. 1 filed by the Petitioner, it claimed credit of TDS of Rs. 8,64,944/- [Rs.4,20,557/- for A.Y. 2015-16 and Rs. 4,44,387/- for A.Y. 2016-17] and also the advance-tax paid of Rs. 55,00,000/-, [i.e. Rs.45,00,000/- for A.Y. 2015-16 and Rs. 10,00,000/- for A.Y. 2016-17], against the sum payable under IDS. Thus, according to the Petitioner, the total sum payable for the tax, surcharge and penalty on the undisclosed income declared under the IDS was Rs. 1,69,57,700/-.

4. Respondent No. 1 issued Form No. 2 on 7th October 2016 quantifying the total sum of Rs. 2,33,22,640/- payable under the IDS, wherein he did not grant credit for the advance-tax of Rs. 55,00,000/- paid by the Petitioner. Credit for TDS of Rs. 8,64,944/- was however granted by him.

5. The Petitioner, towards its tax liability under the IDS, paid three installments viz, (i) Rs. 42,39,425/- on 24th November 2016, (ii) Rs. 42,39,425/- on 29th March 2017 and (iii) Rs.84,78,850/- on 28th September 2017, aggregating to Rs. 1,69,57,700/-. Since, according to the Revenue, there was a short fall of Rs. 54,99,996/- in the payment of tax, by order dated 15th March 2021 passed under Section 187(3) of the FA Act, Respondent No. 1 held that the Petitioner's application filed under the IDS was invalid and deemed it never to have been filed.

6. Upon such rejection, Respondent No. 2, based on the information about the undisclosed income declared by the Petitioner under the IDS, issued a notice under Section 148 of the IT Act on 31st March 2021, reopening the assessment for the A.Y. 2017-18. This culminated into an assessment order under Section 147 read with section 144B of the IT Act dated 29th March 2022, determining Petitioner's total income at

Rs. 6,88,89,737/- for A.Y. 2017-18, by making an addition of Rs. 5,18,28,087/- being the income declared under the IDS by the Petitioner which got rejected. Consequently, a notice of demand under Section 156 of the IT Act dated 29th March 2022 was also issued, raising a demand of Rs. 2,74,17,410/- against the Petitioner. A Show Cause Notice under Section 270A of the IT Act dated 29th March 2022 was also issued to the Petitioner.

7. In this factual backdrop, it is submitted by the learned Counsel for the Petitioner that the order under Section 187(3) of the FA Act is erroneous, inasmuch as Respondent No. 1 erred in not granting credit for the advance tax paid by the Petitioner before making the declaration under the IDS. If credit for the advance tax of Rs. 55,00,000/- was to be given against the sum payable under the IDS, there would have been no shortfall, and therefore, the Petitioner's application under the IDS could not have been rejected. It is further submitted that the issue whether credit can be given for advance tax paid prior to the declaration under the IDS, is already decided in favour of the Assessees by a decision of a Division Bench of this Court in ***Rajendra Lilachand Sanghvi Vs. The Principal Commissioner of Income Tax - 2, Pune [Writ Petition No. 5134 of 2022 decided on 12th March 2024]***. He therefore submitted that the prayers in the above Petition be allowed.

8. On the other hand, Mr. Sharma, on the basis of the affidavit-in-reply dated 19th March 2025 filed by the Revenue, fairly stated that the Revenue has taken note of the judgment in ***Rajendra Lilachand Sanghavi (supra).*** Mr. Sharma submitted that the Petitioner is correct when he contends that he would be entitled for the credit of advance tax paid by him for the aforesaid two assessment years as set out by us earlier. In the affidavit, Mr. Sharma also pointed out to us that the shortfall of tax is Rs. 54,99,996/-, and since credit has to be given for the advance tax of Rs. 55,00,000/- paid by the Petitioner, there would obviously be no shortfall. Mr. Sharma, therefore, submitted that appropriate directions be passed by this court.

9. We have heard the learned Counsel for the parties and also perused the papers and proceedings in the above Writ Petition. It is not in dispute that the total tax demand raised by the Income Tax Department under the IDS was Rs. 2,33,22,640/-. After giving credit for TDS of Rs. 8,64,944/-, the balance amount payable by the Petitioner was Rs. 2,24,57,696/-. Out of this amount, the Petitioner has paid a sum of Rs. 1,69,57,700/- in three installments, as more particularly set out by us earlier. This is how there is a shortfall of Rs. 54,99,996/-. This shortfall has

arisen because the department has not given credit for the advance tax paid by the Petitioner for A.Y. 2015-16 and A.Y.2016-17.

10. This court in the case of *Rajendra Lilachand Sanghavi (supra),* after relying upon two other decisions of this court in the case of ***Kamla Chandra Singh Kabali Vs. Principal Commissioner of Income Tax-27 and others [2022] 137 taxmann.com 346 (Bombay)*** and ***CEAT Limited Vs. Commissioner of Income Tax 2024 SCC OnLine Bom.,*** in similar facts, allowed the Petitioner not only credit for advance tax paid but also for self assessment tax.

11. In light of the decision rendered in *Rajendra Sanghavi (supra),* and considering the fair stand taken by the Revenue in their affidavit-in-reply, the Order dated 15th March 2021 passed under Section 187(3) of the Finance Act, 2016; the Notice issued under Section 148 dated 31st March 2021; the Assessment Order dated 29th March 2022; the Demand Notice dated 29th March 2022 issued under Section 156; and the Show Cause Notice dated 29th March 2022 issued under Section 270A of the IT Act are all hereby quashed and set aside.

12. The concerned Respondents shall issue Form No. 4 under the IDS within four weeks from today, after giving credit for the amount of advance tax already paid by the Petitioner.

13. Rule is made absolute in the aforesaid terms and the Writ Petition is also disposed of in their terms thereof. However, there shall be no order as to costs.

14. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR, J.] **[B. P. COLABAWALLA, J.]**

Santosh Chabukswar- Court Steno.