IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.17574 OF 2024

Vrushali Sanjay Shinde .. Petitioner
Versus
ITO Ward 3(4), Thane & Ors. .. Respondents

Mr. Sankalp Malik a/w Ms. Unnattii Thakkar i/by Mr. Sanket Suhas Bora for the petitioner.

Mr. Akhileshwar Sharma a/w Ms. Shradha Worlikar for respondent nos. 1 to 3.

CORAM : M. S. Sonak &
Jitendra Jain, JJ.
DATE : 26 February 2025

P.C. (Per Jitendra Jain) :-

1. Rule. Rule is made returnable immediately at the request and with the consent of the learned counsel for the parties.

2. This petition is filed seeking following prayers which read as under :-

> *"A. to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, Order or direction, calling for the records of the Petitioner's case and after going into the legality and propriety thereof, directing Respondent No.1 to release the excess tax of Rs. 43,96,295 For A.Y. 2008-09, along with applicable interest u/s 244A /244(1A).*
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> *B. to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, Order or direction, calling for the records of the Petitioner's case and after going into the legality and propriety thereof, directing Respondent No.1 to provide the details of taxes paid by the Petitioner for A.Y. 2007-08 and direct that the excess tax paid, if any, may be refunded to the Petitioner along with applicable interest u/s 244A/244(1A)."*

3. Insofar as prayer (A) is concerned, learned counsel for the

petitioner submits that they have already received refund of Rs.72,84,896/- post filing of this petition. However, the break-up of the said amount has not been furnished. Insofar as prayer clause (B) is concerned, although the Tribunals order is of January 2023, till today the officer has not given effect to the said order and consequently, the refund of the excess amount paid for the assessment year 2007-08 is not being denied.

4. Mr. Sharma learned counsel for the respondent submits that insofar as the grievance of giving break-up of Rs. 72,84,896/- for assessment year 2008-09 is concerned, same would be made available to the petitioner within a period of 4 weeks from the date of uploading the present order. With respect to prayer clause (B), Mr. Sharma submits that he is not sure whether order giving effect has been passed or not. However, appropriate directions may be given to the Assessing Officer to pass an order given effect to the Tribunal's order if such an order is not passed.

5. We have heard learned counsel for the petitioner and the respondents.

6. Insofar as substantial prayer clause (A) is concerned, since the refund for assessment year 2008-09 has already been granted, same does not survive for our adjudication. However, we direct the Assessing Officer to furnish the break-up of the refund amount of Rs. 72,84,896/- to the petitioner so as to enable the petitioner to ascertain whether the refund and interest thereon has been correctly computed.

7. With respect to prayer clause (B) is concerned, although Section 153 (5) of the Act requires the Assessing Officer to pass order giving effect within three months from the receipt of the Tribunal's order which in this case is of January 2023, the grievance of the petitioner is justified

since no order giving effect has been passed till today. We therefore, direct respondent to give effect to the Tribunal's order dated 10 January 2023 for assessment year 2007-08 and compute the amount payable by the petitioner or refundable to the petitioner and if the amount is payable then, raise appropriate demand notice on the petitioner. If the amount is refundable then, refund should be granted within a period of four weeks from the date of passing such effect order. The respondent is directed to pass the order giving effect to the Tribunal's order for assessment year 2007-08 within a period of 8 weeks from the date of uploading the present order.

8. The petition is disposed of in above terms. No orders as to cost.

(Jitendra Jain, J.) **(M. S. Sonak, J.)**