IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2554 OF 2025

Prakash Dhondiram Koli .. Petitioner
Versus
Income Tax Appellate Tribunal, Pune Bench & Ors. .. Respondents

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Mr. Sanket Bora a/w Ms. Vidhi Punmiya, Mr. Amiya R. Das and Ms. Unnatii Thakkar i/by SPCM Legal for the petitioner.
Mr. Arjun Gupta for the respondents-revenue.

CORAM : M. S. Sonak &
Jitendra Jain, JJ.
DATE : 24 February 2025

P.C. (Per M. S. Sonak, J.) :-

1. Heard learned counsel for the parties.

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

3. The petitioner challenges the Tribunal's order dated 4 September 2024 along with consequential order giving effect dated 1 January 2025.

4. Mr. Bora, learned counsel for the petitioner submitted that the Tribunal in this case, entertained a Miscellaneous Application under sub-section (2) of Section 254 of the Income Tax Act ('the Act') beyond the prescribed period of six months by purporting to condone the delay in its institution. Besides, he submitted that the impugned order relies upon the decision of the Hon'ble Supreme Court which was subsequently delivered. He submits that any such subsequent decision is not a good ground for rectification.

5. From the perusal of the impugned order as well as the submissions across the bar, it is apparent that the point of the Tribunal

allegedly having no jurisdiction to condone delay beyond six months was never raised by the petitioner. Therefore, the Tribunal, did not have an opportunity to decide on the same. Similarly, even the revenue had no opportunity to make its submissions on this issue.

6. In the above circumstances, we think that the interest of justice would be met if the impugned order is set aside and the matter is restored to the file of the Tribunal.

7. Mr. Bora states that the petitioner will file a formal reply to the Miscellaneous Application raising all contentions, including the contention based on the power of the Tribunal to condone delay beyond six months in such matters. He states that he will file a compilation of decisions on which the petitioner seeks to rely upon. Statement is accepted. The Tribunal should allow the petitioner to file such reply along with compilation of decisions on which the petitioner seeks to rely upon. If the revenue wishes to file a counter and submit its own compilation of decisions, even that liberty is granted to the revenue.

8. The Tribunal should dispose of the revenue's Miscellaneous Application in accordance with law and on its own merits as expeditiously as possible. All contentions are kept open.

9. All concerned to act on the authenticated copy of this order.

10. The petitioner and the representatives of the respondents to appear before the Tribunal on 7 March 2025 and file an authenticated copy of this order.

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