IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2972 OF 2025

Mitesh Suresh Shah .. Petitioner

Versus

The Income – Tax Officer International Tax Ward – 4(2)(1) and Ors. .. Respondents

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Adv. Dinkle H. Hariya i/b Adv. Rashmi Vyas, *for the Petitioner.*

Adv. Shilpa Goel (Through V.C.), *for the Respondent.*

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.

DATE: AUGUST 18, 2025.

P. C.

1. The above Writ Petition has been filed *inter alia* to quash and set aside (i) the notice dated 31st March 2021 issued under Section 148 read with Section 147 of the Income Tax Act, 1961 ("IT Act"); (ii) the directions issued by the 2nd Respondent on 26th December 2022 under Section 144C(5); (iii) the draft Assessment Order passed under Section 144C(1) dated 29th March 2022; and (iv) the final Assessment Order dated 03rd January 2023 passed under Section 144C(13) of the IT Act.

2. At the outset, learned Advocate appearing for the Revenue brought to our attention the provisions of Section 253 of the IT Act and

submitted that the Petitioner has an equally efficacious alternate remedy to raise the grievances set out in the above Petition before the Income Tax Appellate Tribunal (ITAT). She, therefore, submitted that the above Writ Petition ought not be entertained.

3. After hearing the parties, we find that the preliminary objection taken by the Revenue is a justifiable one. We find that under Section 253 of the IT Act, the Petitioner can approach the ITAT and seek the same reliefs that are sought in the above Petition. We, therefore, do not entertain this Writ Petition and relegate the Petitioner to avail of the alternate remedy.

4. We make it clear that if the Appeal of the Petitioner is filed within a period of 4 weeks from today, the ITAT shall entertain the said Appeal on merits and without raising any objection with reference to the limitation and/or delay.

5. If the Appeal, as directed by us above, is filed within the aforesaid period [i.e. 4 weeks from today], further recovery proceedings against the Petitioner shall be stayed till the disposal of the said Appeal.

6. We have passed this order in the peculiar facts and circumstances of this case because in fact for the earlier Assessment Year, namely, for the Assessment Year 2015-2016, the Assessing Officer itself has

come to the conclusion that the PAN of the Petitioner was misused by some third party and therefore, has not made any addition in relation of the income of the Petitioner for the said Assessment Year. In the Assessment Year in the present case, namely, Assessment Year 2016-2017, the same problem has arisen again. For this reason, we have granted a stay of the recovery proceedings in these peculiar facts.

7. The Writ Petition is accordingly disposed of, and there shall be no orders as to costs.

8. 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.

[FIRDOSH P. POONIWALLA, J.] **[B. P. COLABAWALLA, J.]**