

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

WRIT PETITION NO.2234 OF 2025

Swaminarayan Mandir Trust

.. Petitioner

Versus

Commissioner of Income Tax
(Exemptions), Mumbai & Ors.

.. Respondents

Mr. Devendra Jain, a/w *Mr. Shashank A. Mehta*, *Mr. Saukhya D. Lakade*, i/b *Mr. Kashyap Chothani*, *Advocates for the Petitioner*.

Mr. Pritish Chatterjee, *Advocate for Respondents*.

**CORAM : B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.**
DATE : DECEMBER 24, 2025

P. C.

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

2. The above Writ Petition challenges the order dated 29.03.2024 passed by Respondent No.1 rejecting the revision application filed by the Petitioner under Section 264 of the Income Tax Act, 1961 (for short “**the IT Act**”) for A.Y.2017-18, and also the

intimation issued under Section 143(1) dated 30.03.2019 for the said Assessment Year. As a result of this, the Petitioner Trust has been denied the benefit of exemption under Section 11 of the IT Act.

3. Brief facts of the case are that the Petitioner is a Trust which was set up on 05.09.1976 for charitable and religious purposes and is registered under Section 12A of the IT Act.

4. For the relevant Assessment Year 2017-18 the Petitioner filed its return of income declaring a total income of Rs.16,37,470/-.

5. On 30.03.2019 the above referred ITR was processed under Section 143(1) wherein certain adverse adjustments were made and the total income was recomputed at Rs.34,05,995/-.

6. On perusal of the above intimation, the Petitioner realized mistakes/errors committed by it in the ITR and filed an application on the e-portal for rectification on 14.01.2020 before Respondent No.2 (i.e. the Jurisdictional Assessing Officer). On 15.02.2021 the Petitioner made another rectification application. The Petitioner thereafter filed a third rectification application on 05.01.2023. However, the same was again

rejected vide order dated 30.01.2023 on the ground that there was no mistake apparent from the record as rectifiable under Section 154 of the IT Act.

7. Consequent to the unfruitful result of the above referred rectification application, the Petitioner filed a revision application before Respondent No.1 on 24.02.2023 under Section 264 of the IT Act. However, Respondent No.1 vide order dated 29.03.2024 rejected the revision application of the Petitioner on the following grounds:

- (a) That the return of income was processed based on the figures punched by the Petitioner in the ITR and the Audit Report. Accordingly, it cannot be said that there was any error while processing the return of income;
- (b) That Petitioner had filed a similar application even for other assessment years. Thus, if the Petitioner would have realized its mistake, then it should have corrected them atleast for the other Assessment Years.

8. It was thus concluded by Respondent No.1 that the Petitioner had punched wrong data in the ITR and there was no mistake in the intimation issued under Section 143(1). It is this order that is impugned in the above Writ Petition.

9. In this factual backdrop, Mr. Jain, the learned counsel appearing on behalf of the Petitioner, submitted that Petitioner had earned interest income and received sum/donations towards the objects of the trust. He stated that while punching the figures in the return of income the Petitioner inadvertently and unintentionally committed certain punching errors. This error was mainly on account of disclosure of receipts/income in the incorrect schedules/fields of the Income tax Return (for short “**the ITR**”). The said punching error on the part of the Petitioner is elaborately described in paragraph 4.2 of the Writ Petition. It is stated that according to the Petitioner, the total income for the relevant Assessment year was Rs.3,03,066/- (computation of Total income is placed as Exhibit B of the Writ Petition). Mr. Jain, further submitted that for reasons unknown to the Petitioner, despite erroneous punching of data in the ITR, the total tax liability and the refund due was reported correctly in the ITR acknowledgment (placed as Exhibit C of the Writ Petition), which is the same as per the computation of the Petitioner. It was submitted that because the acknowledgment of filing the ITR displayed the correct figure of the refund due, the Petitioner was under a *bonafide* belief that the particulars of the return of income were correct. It is stated that while processing the return of income, the

processing system has recognized the errors committed by the Petitioner in the ITR and accordingly made the adverse adjustments.

10. Mr. Jain, fairly stated that the Petitioner committed certain punching errors in the ITR leading to denial of exemption under Section 11 of the IT Act in the intimation issued under Section 143(1). Consequent to the same, the Petitioner vigilantly applied for rectification of the impugned intimation issued under Section 143(1), several times where it did not succeed. Hence, it filed the application for revision before Respondent No.1 pursuant to the provisions of Section 264 of the IT Act.

11. Mr. Jain submitted that Respondent No.1, under Section 264, can also adjudicate on mistakes/errors committed by the assessee in the ITR and can also consider the claims not made by the assessee in the return of income. In support of this proposition reliance was placed on the decision of this Court in the case of ***Pramod R. Agrawal vs. Principal Commissioner of Income-tax [(2023) 156 taxmann.com 126 (Bombay) dated 13-10-2023]*** and ***Diwaker Tripathi vs. PCIT [(2024) 466 ITR 371 (Bombay) dated 29-08-2023]***. In the present case, there was a human error in punching data in the ITR which ultimately led to denial of exemption under Section 11,

which the Petitioner was otherwise entitled to. Accordingly, he submitted that Respondent No.1 ought to have considered these errors and should have allowed the revision application of the Petitioner. He submitted that the Petitioner cannot be subjected to tax which it was not otherwise exigible to, merely on account of certain punching/human errors in the ITR.

12. Mr. Jain submitted that the powers under Section 264 of the IT Act are intended to prevent miscarriage of justice and the Courts have consistently taken a view that conferment of the powers under Section 264 of the IT Act is to enable the Commissioner to provide relief to the Assessee, where the law permits the same. This power would even cover a situation where the Assessee, because of any error, has not put forth a legitimate claim at the time of filing the return and the error is subsequently discovered and is raised for the first time in an application filed under Section 264 of the IT Act.

13. Per contra, Mr. Chatterjee, the learned counsel appearing on behalf of the Respondents, contended as under:-

(a) that errors/mistakes were committed by the Petitioner in the return of income and the return was processed accordingly under Section 143(1). Accordingly, it cannot be said that there

was any mistake/error in processing of the said ITR;

- (b) that under Section 264, Respondent No.1 had no power to consider a claim which was not made in the return of income. In this regard, reliance was placed on the decision of Apex Court in the case of ***Goetze (India) Ltd. v. CIT [(2006) 284 ITR 323 (SC)]***;
- (c) the Petitioner should have filed a revised return under Section 139(5) of the Act to correct the errors committed by it in the original ITR, which is admittedly not done; and
- (d) the Petitioner should have filed an appeal before the Commissioner of Income Tax (Appeals) under Section 246A of the IT Act against the intimation issued under Section 143(1).

14. Countering the contentions of Mr. Chatterjee, Mr. Jain submitted that where the time limit to file a revised return was over, the statute provides an option to the Assessee to either file an appeal before the Commissioner of Income Tax (Appeals), or to file a revision application under Section 264 before the prescribed authorities. Exercising this discretion, the Petitioner preferred to file the revision application under Section 264. He also relied upon the decision of this Court in the case of ***Bahar Infocons (P.) Ltd. vs. PCIT [(2025) 476 ITR 615 (Bombay) dated 23-09-2024]*** and

Hapag Lloyd India Pvt. Ltd. Vs. PCIT [WP No.2332 of 2021 order dated 09.02.2022] and submitted that there is no bar under Section 264 which prevents Respondent No.1 to consider claims not made in the ITR.

15. We have heard both the parties at length and have also perused the records produced before us and also the affidavit in reply filed by the Respondents.

16. Firstly, we are in agreement with the submission made by Mr. Jain that the assessee has the discretion to either file an appeal under the provisions of Section 246A of the IT Act before the Commissioner of Income tax (Appeals) against an appealable order or to apply for revision under Section 264 of the IT Act before the prescribed authorities. There is nothing in the statute which mandates the assessee only to pursue the appeal remedy and deny the remedy under Section 264 (when no such appeal is filed). In fact, this Court in the case of ***Kamal Pasricha As Trustee of Kuldip Kaur Trust vs. ITO [(2025) 171 taxmann.com 620 (Bombay) dated 10-02-2025]*** and ***Aafreen Fatima Fazal Abbas Sayed v. Asstt. CIT [(2021) 434 ITR 504 (Bombay)]***

has consistently held that the Revisional Authority under Section 264 cannot refuse to exercise its revisional jurisdiction on the ground that order impugned was appealable before the appellate authority.

17. Secondly, the question under consideration is whether the prescribed authority can exercise its power under Section 264 to make good the mistakes/errors which are committed by the assessee itself in the return of income. This aspect is no longer *res-integra*. This Court has time and again held that the powers conferred on the Commissioner under Section 264, are not only wider in its scope but are also intended for the purpose of preventing miscarriage of justice and for providing relief to an assessee, which it is otherwise entitled to. This Court in the case of *Pramod R. Agrawal (supra)* held as under:-

“11. The other submission of Mr. Suresh Kumar also cannot be accepted in view of the wide powers conferred on respondent No. 1 under section 264 of the Act. As held by this court in *Smita Rohit Gupta (supra)*, section 264 confers wide jurisdiction on the Commissioner. The proceedings under section 264 of the Act are intended to meet a situation faced by an aggrieved assessee, who is unable to approach the Appellate Authorities for relief and has no other alternate remedy available under the Act. The Commissioner is bound to apply his mind to the question whether petitioner was taxable on that income and his powers are not limited to correct the error committed by the subordinate authorities **but could even be exercised where errors are committed by assessee**. It would even cover situation where assessee because of an error has not put forth legitimate claim at the time of filing the return and the error is subsequently discovered and is raised for the first time in an application under section 264 of the Act....”

(emphasis supplied)

18. Similarly, in the case of *Diwaker Tripathi (supra)*, where the assessee committed errors in filing the return of income, this court held as under:-

- “8. Therefore, as the power conferred under section 264 of the Act is very wide, in our view, the Commissioner is duty bound to apply his mind to the application filed by the assessee and pass such order thereon. Section 264 of the Act also empowers respondent no.1 to call for the record of any proceedings under the Act in which any order has been passed and make such inquiry or cause such inquiry to be made and pass such order as he thinks fit. Therefore, if respondent no.1 feels that detailed inquiry is necessary and he will be hard pressed for time, he may cause such inquiry made by the Assessing Officer and direct the Assessing Officer to file a report.
9. In the present case, as per petitioner in his return of income he has made mistakes as noted earlier in this order. Looking at the mistake, it is rather obvious that it was not a deliberate mistake or an attempt to gain some unfair advantage or to evade any tax.
10. In the circumstances, we quash and set aside the order dated 27th March 2017 passed under Section 264 of the Act, order dated 21st September 2021 under section 154 of the Act and intimation dated 17th October 2015 issued under section 143(1) of the Act and remand the matter for denovo consideration to respondent no.1 to dispose petitioner's application under section 264 of the Act on merits.”

19. Considering the above, we are of the view that the provisions of Section 264 would cover within its ambit even a scenario where the assessee commits any error/mistake in the return of income.

20. Thirdly, as regards the decision of the Hon’ble Apex Court in the case of *Goetze (India) Ltd. (supra)*, relied upon by Mr. Chatterjee, we find that this Court in the case of *Bahar Infocons (P.) Ltd. (supra)*

has already dealt with the said argument of the revenue (in the context of Section 264 itself) and has held as under:-

“17. Now coming to the decision as cited by Mr Mohanty, we are not persuaded to accept that the decision in Goetze (India) Ltd. (supra) in the facts of the present case would at all be applicable. Such decision is not in the context of the revisionary powers as conferred under the provisions of section 264 of the Income Tax Act, but in the context of deduction claimed by the assessee by a letter, after the return was filed, without filing of a revised return....”

21. Further, this Court in the case of *Hapag Lloyd India Pvt. Ltd. (supra)* held as under:-

“13. Mr. Thakkar was justified in placing reliance on a Division Bench Judgment of this Court in the case of Geekay Security Services (P) Ltd. vs. Deputy Commissioner of Income Tax, Circle 3(1)(2) 1 wherein the Division Bench considered an identical question as to whether the revisional authority was justified in rejecting the revision application solely on the ground that the applicant had not claimed the benefit in the original return. After advertting to the previous pronouncements of various High Courts, this concurred with the view that Section 264 does not limit the power to correct errors committed by the sub-ordinate authorities and could even be exercised where errors are committed by the assessee and there is nothing in Section 264 which places any restriction on the Commissioner's revisional power to give relief to the assessee in a case where assessee detects mistakes after the assessment is completed.

14. The aforesaid pronouncement is on all four with the facts of the case at hand.”

22. Considering the above, we are of the considered opinion that the decision of the Apex Court in *Goetze (India) Ltd.(supra)* is wholly inapposite to the case at hand.

23. We are, therefore, of the view that Respondent No.1 ought to have considered the revision application under Section 264 of the Petitioner even though the mistakes/errors were committed by the Petitioner itself in the return of income. Thus, in view of the foregoing discussion, we quash and set aside the Impugned Order dated 29.03.2024 pertaining to the Assessment Year 2017-18 whereby the application filed by the Petitioner under Section 264 of the IT Act was rejected, and pass the following order:-

- (i) The Petition stands allowed.
- (ii) The impugned order dated 29.03.2024 stands quashed and set aside.
- (iii) The revision application stands restored to the file of Respondent No.1 and remitted back for a *de novo* consideration. Respondent No.1 shall consider the representation of the Petitioner with respect to the errors/mistakes committed by the Petitioner in the return of income or audit report and grant the relief as claimed, if tenable in law.
- (iv) Respondent No. 1 shall provide an effective opportunity of hearing to the Petitioner with adequate advance notice, and decide the revision application in accordance with law within a period of 12 weeks from the communication of this order. The Petitioner shall be entitled to submit its explanation/documentary evidences/ submissions before Respondent No.1.

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

25. 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.]