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

WRIT PETITION NO. 4961 OF 2024

JSW Energy Limited .Petitioner

Vs.

The Assistant/Deputy Commissioner of Income Tax, Mumbai & anr. .Respondents

Ms. Priyanka Jain (Through VC) a/w. Mr. Pankaj Soni i/b. Vaish Associates, Advocates, for the Petitioner
Mr. Suresh Kumar, Advocate, for the Respondents

CORAM : M. S. SONAK &
JITENDRA JAIN, JJ.

DATE : 07.04.2025

P. C.

1. Heard learned Counsel for the parties.

2. The main relief in this Petition was a direction on the Respondents to pass order giving effect to the various orders referred to in prayer clause (A) of the Petition.

3. Prayer clause (a) of the Petition reads as follows :-

> *"(a) a writ and/or order and/or directions in the nature of a mandamus directing the Respondent No. 1 to pass the order giving effect to the favourable orders (i) dated 31.07.2015 passed by the Hon'ble ITAT, Mumbai in ITA No. 463/Mum/2014 (Exhibit A)*

> *(ii) 02.06.2017 passed by the Hon'ble ITAT, Mumbai in ITA No. 1334/Mum/2015 read with order dated 16.12.2019 passed in ITA No. 1334/Mum/2015 in deciding miscellaneous application for the assessment year 2008-09 (Exhibit B and C) and; (iii) dated 13.03.2024 passed by the Hon'ble High Court of Bombay in ITXA No. 669/2018 for the assessment year 2008-09 (Exhibit D) including additional grounds admitted in case of the Petitioner within fix time frame."*

4. On 17.03.2025 when this matter came up for consideration, Mr. Suresh Kumar, learned Counsel for the Respondents – Revenue had submitted that the time limit for passing orders to give effect was upto 31.03.2025.

5. Ms. Jain, learned Counsel for the Petitioner, had disputed this position. However, on 17.03.2025, we clarified that for the present, we do not wish to go into such rival contentions and the matter was adjourned to 07.04.2025.

6. Today, Mr. Suresh Kumar, learned Counsel for the Respondents – Revenue places on record an Order dated 29.03.2025 purporting to give effect to the orders referred to in prayer clause (a) of the Petition.

7. Ms. Jain submits that this order is made beyond the prescribed period of limitation. Besides, she points out that in the Show Cause Notice, only one issue was raised and other issues were not even raised. She submits that under such circumstances,

we should continue with this Petition and direct the Respondents to make further orders. She adds that even making of further orders at this stage would be impermissible because the limitation for making such orders has long expired. In short, she assails the Order dated 29.03.2025 on various grounds.

8. Now that the Order dated 29.03.2025 has been made and such order is appealable under the I. T. Act, it would not be appropriate for us to go into the various issues now raised by Ms. Jain, learned Counsel for the Petitioner. By clarifying that we have not concluded these issues and that these issues are left explicitly open we dispose of this Petition by granting the Petitioner liberty to challenge the Order dated 29.03.2025 on all grounds, including the grounds now urged by Ms. Jain on behalf of the Petitioner. If such Appeal is indeed instituted, we have no doubt that all contentions of all parties would be considered by the Appellate Authority.

9. Thus, by granting liberty in the above terms, we dispose of this Petition. No costs.

10. All concerned to act on an authenticated copy of this order.

(JITENDRA JAIN, J.) **(M. S. SONAK, J.)**