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

WRIT PETITION NO. 1580 OF 2025

Essar Steel Metal Trading Ltd. .. Petitioner

Versus

Centralised Processing Centre & Ors. .. Respondents

Adv. Nishant Thakkar a/w Adv. Hiten Thakkar i/b. Lumiere Law Partners for the Petitioner.

Adv. Akhileshkumar Sharma for the Respondents.

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE: JULY 28, 2025

P. C.

1. By the present Petition, the Petitioner challenges the Order dated 20th December, 2024 (styled as a communication) passed under Section 139 (9) of the Income Tax Act, 1961 declaring the Petitioner's return of income as "invalid". The reason for holding the return as defective and therefore invalid, is because of non filing of the compulsory audit report as required under Section 44AB of the IT Act.

2. At the outset said Mr. Sharma, the learned counsel appearing on behalf of the Income Tax Department took a preliminary objection that Petitioner has an equally efficacious alternate remedy by invoking Revisional Jurisdiction of the Principal Commissioner under Section 264 of the IT Act. In this regard, he brought to our attention a decision of this Court in the case of ***TPL- HGIEPL Joint Venture Vs. Union of India and Ors. [Writ Petition (L) 15292 of 2024 decided on 27th March, 2025].***

3. This apart, even on merits, Mr. Sharma opposed the above Writ Petition on the grounds more particularly set out in their Affidavit-in-Reply.

4. We have carefully gone through the decision of this Court rendered in *TPL-HGIEPL Joint Venture (supra).* In the facts of that case also, what was challenged was an order passed under Section 139 (9) of the Income Tax Act, 1961, declaring the Petitioner's return as "invalid". The reason for such invalidation was also because of non-filing the compulsory audit report under Section 44AB of the IT Act. This Court found that the Petitioner had an equally efficacious alternate remedy under Section 264 of the IT Act, and therefore, relegated the petitioner to avail of that alternate remedy.

5. Considering that the facts in the present case are very similar, if not identical to the facts in the *TPL-HGIEPL Joint Venture (supra)*, we uphold the preliminary objection of the department and we relegate the Petitioner to approach the Principal Commissioner under Section 264 of the IT Act.

6. We direct that the Revision Application shall be filed by the Petitioner [invoking the provisions of Section 264], within a period of 4 weeks from today. If such an application is filed, we request the Revisional Authority to dispose of the Revision Petition as expeditiously as possible, and preferably within a period of 3 months of its institution. Needless to state, the Revisional Authority must give the Petitioner an opportunity of hearing and pass a reasoned order on merits and not remand the matter to the CPC (Central Processing Centre). All contentions of all parties are left open to be agitated before the Revisional Authority in the first instance.

7. The Writ Petition is disposed of in the aforesaid terms. However, there shall be no order 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.]**