IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1904 OF 2025

Raj Rayon Industries Ltd .. Petitioner
Versus
Principal Commissioner of Income Tax PCIT,
Mumbai & Ors .. Respondents

Mr. Satish Modi, *with Mr. Jitendra Singh, Shivali Mhatre, Advocates for the Petitioner.*

Mr. Ravi Rattesar i/b Arjun Gupta, *Advocates for the Respondents.*

CORAM: B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.
DATE: NOVEMBER 25, 2025

P. C.

1. The present Petition is filed seeking to challenge the order passed by the Principal Commissioner of Income Tax (Respondent No.1) dated 28th March 2025 under Section 264 of the Income Tax Act, 1961 (for short "***I. T. Act***").

2. In the facts of the present case, the Petitioner had filed its Return of Income under Section 139 (1) of the I. T. Act. Thereafter, the Petitioner received a Notice under Section 139 (9) as to why the return should not be declared as "invalid" for non filing of the statutory audit report under Section

44AB. The Petitioner responded to the said notice by contending that under the provisions of the I. T. Act since the gross turn over of the Petitioner was less than Rs. 10 Crores, there was no requirement for the Petitioner to file the statutory audit report. In a very cryptic communication, the Petitioner is informed that the response of the Petitioner is not accepted and his return is declared as “invalid”.

3. This was challenged by the Petitioner by approaching the 1st Respondent under Section 264 of the I. T. Act calling upon him to exercise his revisional powers. The 1st Respondent, instead of examining the matter on merits, dismissed the revision filed by the Petitioner (under Section 264) on the ground that there was no order which could be revised and the declaration that the return is “invalid” under Section 139 (9) is only a communication.

4. The learned counsel appearing on behalf of the Petitioner submitted that apart from the fact that this approach of Respondent No.1 is incorrect in law, in another matter i.e. ***TPL-HGIEPL Joint Venture v/s Union of India [2025] 173 taxmann.com 540 (Bombay),*** the Revenue in fact contended that the order under Section 139 (9) is a revisable one, and therefore, the Petitioner ought to be relegated to the alternate

remedy under Section 264 and the Writ Petition against the said communication/order ought not to be entertained. This argument of the Revenue was in fact accepted by the Division Bench of this Court in the case of *TPL-HGIEPL (Supra)* and the Petitioner was relegated to avail of the alternate remedy. In the facts of the present case, the 1st Respondent has done exactly the opposite, and therefore, requires interference under Article 226 of the Constitution of India, was the submission of the Petitioner.

5. As far as the Revenue is concerned, we are informed that Mr. Arjun Gupta appears on behalf of the Revenue. He has been unable to attend Court today because he is unwell. Therefore, a request is made that the matter be adjourned for a week.

6. Acceding to the request of the Revenue, we place the matter now on 2nd December 2025.

7. 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.]**