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

WRIT PETITION NO. 1479 OF 2025

Sunita Samir Sao .. Petitioner

Versus

The Principal Commissioner of
Income Tax -20 & Ors. .. Respondents

Adv. Mandar Vaidya for the Petitioner.

Adv. Mamta Omle for the Respondents.

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE: JANUARY 14, 2026

P. C.

1. In this Petition, the Petitioner is aggrieved with the refusal of the Respondents to grant credit for taxes paid and refund/release of cash seized, in the computation of the Petitioner's liability/refund under the Direct Tax Vivad se Vishwas Act 2020 (for short '**DTVSV**').

2. The Petitioner is an individual and is the 'Legal Representative' of her father, one Late Shri Bhalchandra Bhaskar Thakoor. The Petitioner's deceased father (hereinafter referred to as the "deceased") was subjected to a 'search & seizure' action under Section 158BC read with Section 132 of the

Income tax Act, 1961 (for short '**IT Act**') on 4th & 5th September 1997, along with some of his family members. Subsequently an Assessment Order dated 30th September 1999 was passed under Section 158BC, for the Block Period 1.4.1987 to 15.9.1997.

3. In the course of the search action, some cash was seized, along with certain jewellery, from the persons put to search. In the case of the Petitioner (her deceased father), cash of Rs.11,50,000/- (Rupees Eleven Lakhs Fifty Thousand only) was seized and an assessment was made by passing an Assessment Order under Section 158BC of the IT Act, dated 30th September 1999 (Exhibit-A).

4. The said block assessment was carried in appeal before the Appellate Authorities. Against the Order of the Hon'ble Income Tax Appellate Tribunal, the Petitioner (the deceased father) filed an Appeal before this Court and the said Appeal, being ITXA/31/2006, was admitted. Similarly, penalty under Section 158BFA(2) of the IT Act was also levied and confirmed by the Hon'ble Income Tax Appellate Tribunal, against which an Appeal was filed before this Court, being ITXA/456/2015. The said Appeal against levy of penalty was also admitted.

5. In the meantime, the then Assessing officer issued Notice dated 20th October 1999 (Exhibit-B) to the Petitioner, stating that the cash seized of Rs.11,50,000/- (Rupees Eleven Lakhs Fifty Thousand only) was contemplated to be adjusted against the demand arising out of the said assessment and called upon the Petitioner (the Petitioner's deceased father) to give his consent for the same.

6. The Petitioner (the deceased father), vide letter dated 1st November 1999 (Exhibit-C), accorded consent for adjusting the said cash against the demand, during the pendency of the appeal against the assessment.

7. During the pendency of the appeals, the Petitioner paid some amount of taxes [Rs.7,35,049/- (Rupees Seven Lakhs Thirty Five Thousand Forty Nine only)] arising out of the assessment, by way of challans, which were independent of the cash seized during the search action.

8. Thereafter, the Petitioner availed of the scheme under the DTVSV Act, and also withdrew her appeals filed before this Court, in pursuance of her application under DTVSV scheme.

9. The Petitioner filed the necessary forms under the DTVSV Scheme (Form 1 & 2) and claimed credit for taxes paid by way of challans as well as credit for the cash that was seized and adjusted against the demand.

10. In Form No.3 dated 27th February 2021 (Exhibit-F), issued by Respondent No.1 under the said DTVSV scheme, credit was neither given for taxes paid by way of challans nor for the cash seized during the search.

11. The Petitioner followed/pursued the issues with the Respondents and pointed out the errors in Form-3, including non-granting of credit for cash seized of Rs.11,50,000/- and raised her grievances.

12. Having received no response from the Respondents, the Petitioner approached this Court, (being WP/836/2022), raising grievances and contending that she was entitled to the credit of the cash seized during the search action. The Petitioner also prayed that the Respondents be directed to remove the infirmities in Form No.3. This Court, vide its order dated 3rd March 2022 was pleased to set aside Form No.3 (Exhibit-J) and directed the Respondents to grant a personal hearing to the Petitioners and also consider the Petitioner's claim for credit of the cash seized.

13. We are informed that since other family members of the Petitioner were also subjected to the search action, cash was also seized in their respective cases. The said family members had also availed of the DTVSV scheme and the issue of non-granting of credit for cash seized had also cropped in their cases (being WP/3850/2021 and WP/3849/2021). The said family members had filed similar Petitions before this Court and this Court had directed the Respondent-Department to consider the claim of credit for cash seized. We are informed that the Department has released the cash seized along with interest in case of the said family members, which is assented to by the Learned Counsel for the Respondents.

14. Be that as it may, in the present proceedings that followed after the directions of this Court, the Respondent's stand briefly was that the record of cash that was seized, was not available and hence credit could not be given. As far as credit for taxes paid by way of challans is concerned, the stand of Respondent No.1 is that the challans were not matching and hence credit for the same could not be given. The Petitioner also made an alternative plea for release of cash under Section 132B of the Income Tax Act and an Application was made before Respondent No.2, under Section 132B(3) of the IT Act, for release of cash seized.

15. We are informed that the Respondent-Department had adopted an identical stand in case of one particular family member (Vasant Thakoor-WP(L)/33180/2023) of the Petitioner who was also subjected to the search action and also cash was seized in his case. The said family member had also availed of the DTVSV scheme and the issue of non-granting of credit for cash seized had also cropped in his case. The said family member (Shri Vasant Thakoor- WP(L)/33180/2023) had filed a similar petition before this Court wherein the Respondent-Department had conceded that cash had to be released with accumulated interest and credit had to be allowed for payments made through challans. Accordingly, the said petition (WP(L)/33180/2023) was disposed of, vide order dated 27th February 2024. The Learned Counsel for the Respondents concedes that the facts of the present case are identical to the facts in petition WP(L)/33180/2023.

16. We must mention that during the pendency of this Petition, the Respondents have issued fresh Form No.3 dated 10th December 2025 and Form No.5 dated 11th December 2025, wherein credit for three challans for amounts of Rs. 5,57,000/-, Rs. 22,113/- and Rs. 1,07,083/- has been allowed resulting in a refund amount of Rs.69,696/- (Rs. Sixty Nine thousand six hundred ninety six only) but no credit is granted for the cash seized.

17. The Respondents have filed their Reply dated 15th December 2025 wherein the fact of seizure of cash by the Department has been accepted. The Respondents state that the record of cash that was seized, was supposed to be with some other ward/circle, and there was no confirmation forthcoming from the said ward/circle despite making efforts towards the same, and hence the record/accounting treatment of the cash seized, could not be ascertained.

18. Today, the Learned Counsel for the Respondents/Department accepts that the cash seized has to be released and the Respondents undertake to refund the cash along with accumulated interest, within 30 days from today, on similar lines as in Writ Petition No. 33180/2023. The Respondents have called for an Indemnity Bond from the Petitioner which the Petitioner has filed with the Respondents' office.

19. Accordingly, the Respondents are directed to issue refund the cash seized of Rs.11,50,000/- (Rs. Eleven Lakhs Fifty Thousand), along with accumulated interest, within 30 days from today. Similarly, the CPC is further directed to issue refund arising out of Form No.5 dated 11th December 2025, which is towards taxes paid by way of challans by the Petitioner, within 30 days from today.

20. 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.

21. Liberty to apply in the event the directions given by us above are not complied with.

22. 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.]**