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

WRIT PETITION NO. 2024 OF 2025

Nisarg Ajaykumar Vakharia .. Petitioner

Versus

Principal Commissioner of Income Tax-19 and Ors. .. Respondents

Adv. K. Gopal*, a/w Adv. Om Kandalkar, for the Petitioner*.

Adv. Mamta Omle*, a/w Adv. Prajkta Vhatkar, for the Respondents.*

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.

DATE: FEBRUARY 3, 2026

P. C.

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

2. The above Petition is filed seeking to challenge the order dated 7th March 2025 passed by Respondent No.1 under Section 264 of the Income Tax Act, 1961 (for short "**IT Act**").

3. The facts of the case are in a very narrow compass. In the instant case, the Petitioner filed his Income Tax Returns for Assessment Year (A.Y.) 2022-2023 on 19th July 2022, declaring his income at Rs. 18.10 Crores. The Return of the Petitioner was processed, and an intimation order under Section 143(1) of the IT Act was passed on 19th October 2022.

4. The Petitioner had purchased an immovable property for Rs.23.06 Crores in December 2020, which was registered on 1st February 2021. According to the Petitioner, while filing the Income Tax Return for A.Y. 2022-2023, an inadvertent mistake crept in as he did not make a claim under Section 54F of the IT Act against Long-Term Capital Gains on the sale of shares. The Petitioner stated that he had Long-Term Capital Gains of Rs.11.69 Crores in A.Y. 2022-2023. The Assessee has further stated that he had disclosed the new property under Schedule AL (Assets and Liabilities) of the Income Tax Return for A.Y. 2022-2023, but did not claim any deduction under Section 54F. The Petitioner also submitted a copy of the intimation order, the sale deed computation of income, etc. All these documents were submitted before Respondent No.1, who was called upon to exercise his Revisional Jurisdiction under Section 264 of the IT Act.

5. The 1st Respondent on his part, called for a report from the Assessing Officer. The Assessing Officer in his report *inter alia* stated that though factually what was stated by the Petitioner was correct, since the Petitioner had not made any claim for exemption under Section 54F, no exemption was granted by the CPC to the Petitioner in the intimation order dated 19th October 2022. After considering the report of the Assessing Officer, as well as hearing the Petitioner, the PCIT (1st Respondent) came to the conclusion that since the Petitioner had not made a claim in his original Return and had also not filed any revised Return, he could not make the aforesaid claim before the 1st Respondent under Section 264, for the first time. Accordingly, the 1st Respondent dismissed the application filed by the Petitioner under Section 264 of the IT Act. Whilst doing so, the 1st Respondent relied upon the decision of the Hon'ble Supreme Court in the case of ***Goetze (India) Ltd. Vs. Commissioner of Income-tax [(2006) 284 ITR 323]***.

6. We have heard the learned Counsel appearing for the Petitioner as well as the learned Advocate appearing for the Revenue.

7. We find that the issue raised in the above Writ Petition is squarely covered by several decisions of this Court in favour of the Petitioner.

This Court has time and again held that revisional powers under Section 264 are not only wider in their scope but are also intended for preventing miscarriage of justice and providing relief to an Assessee, which it is otherwise entitled to.

8. This Court has also taken into consideration the decision of the Hon'ble Supreme Court in *Goetze (India) Ltd. (supra)* and held that the said decision would be wholly inapplicable since the Hon'ble Supreme Court was not considering the revisional powers as conferred under the provisions of Section 264 of the IT Act, but was in the context of a deduction claimed by the Assessee by a letter, after the Return was filed, without filing of a Revised Return. If one needs to take support from any decision of this Court, the decision rendered in ***Swaminarayan Mandir Trust Vs. Commissioner of Income Tax (Exemptions), Mumbai and Ors. (Writ Petition No. 2162 of 2025, decided on 24th December 2025)*** would be apposite. Paragraphs 17 to 22 of this decision read thus:-

> *"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...."*
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> *(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 SecurityServices (P)*

> *Ltd. vs. Deputy Commissioner of Income Tax, Circle3(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 adverting 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.*
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> *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."*

9. In view of the aforesaid settled position in law, we are clearly of the view that Respondent No.1 ought to have considered the Revision Application of the Petitioner (filed under Section 264) even though mistakes/errors were committed by the Petitioner itself in the Return of the Income. Once we are of this view, the impugned order passed under Section 264 cannot be sustained and would have to be set aside.

10. In view of the foregoing discussion, we pass the following order:-

(i) The impugned order dated 7th March 2025 is hereby quashed and set aside;

(ii) The Revision Application filed by the Petitioner is restored to the file of the 1st Respondent for a *de novo* consideration. Respondent No.1 shall consider the application of the Petitioner with respect to the errors/mistakes committed by the Petitioner in the Return of Income and grant relief as claimed, if tenable in law;

(iii) 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;

(iv) The Petitioner shall be entitled to submit its explanation/documentary evidences/ submissions before Respondent No.1.

11. 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.

12. 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.]**

Darshan Patil