

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

WRIT PETITION NO. 468 OF 2026

Laqshya Media Limited

.. Petitioner.

Versus

Asst./ Dy. Commissioner of Income Tax
Circle 2(2)(1), Mumbai & Others

.. Respondents.

*Adv. Ravi Sawana with Adv. Neha Sharma and Adv. Prativa Agarwal
i/b. Adv. Sriram Sridharan, for the Petitioner.*

Adv. Abhishek R. Mishra, for the Respondents.

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE: MARCH 23, 2026

P. C.

1 **Rule.** With the consent of the parties, Rule made returnable
forthwith and heard finally.

2 The present writ petition challenges the inaction of Respondent
No. 1 in as much as no assessment order has been passed pursuant to the
order of the Income-tax Appellate Tribunal, Mumbai ("Tribunal") within the
prescribed limitation under Section 153 of the Income-tax Act, 1961 ("Act"),
for Assessment Year ("AY") 2014-15.

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3 The Petitioner has contended that the assessment proceedings before Respondent No. 1 pursuant to the order of the Tribunal dated 17th July 2020 have become barred by limitation in view of Section 153(3) read with Section 153(4) of the Act. It is on this basis that the Petitioner has sought relief in terms of prayer clause (a) of the Writ Petition which reads as under:

"(a) that this Hon'ble Court may be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction under Article 226 of the Constitution of India, ordering and directing the Respondent No. 1 to accept the income returned by the Petitioner for AY 2014-15."

4 The return of income filed by the Petitioner for AY 2014-15 was selected for scrutiny assessment and a final assessment order came to be passed on 29th October 2018 under Section 143(3) r.w.s. 144C(13) of the Act, making certain additions / disallowances to the income returned by the Petitioner. Thereafter, the Petitioner filed an appeal before the Tribunal. The Tribunal *vide* order dated 17th July 2020 held as under:

- (i) Arm's length price of Corporate Guarantee fee restricted to 0.5% till July 2013, as against 1.50% taken by the TPO for the entire financial year.

- (ii) Issue of “adjustment pertaining to interest on loan to AE” sent back to the TPO/ AO for fresh consideration, relying on the Tribunal order of the previous year in the case of the Petitioner.
- (iii) Deleted the disallowance made by the AO u/s 36(1)(iii).
- (iv) Deleted the disallowance made by the AO u/s 14A r.w.r. 8D.
- (v) Issue of unreconciled difference between the receipts appearing in Form 26AS and Petitioner’s books of account sent back to the file of the AO for reconsideration and verification.

5 Pursuant to the said order of the Tribunal, the TPO passed an order giving effect on the issue of corporate guarantee on 11th February 2021 which was communicated to the AO.

6 Subsequently, the AO made a reference under Section 92CA(1) of the Act to the TPO on 17th December 2021 with regard to computation of arm’s length price of interest on loan to AE. Pursuant thereto the TPO passed an order dated 28th September 2022 under Section 92CA(3), read with Section 254, of the Act, proposing a transfer pricing adjustment in respect of interest receivable on loan to AE, to the income of the Petitioner. Thereafter, the AO did not pass any assessment order.

7 In the present writ petition, the Petitioner has contended that Respondent No. 1 was required to pass an assessment order pursuant to the remand by the Tribunal by 31st March 2023, in terms of limitation prescribed in Sections 153(3) r.w.s. 153(4) of the Act. However, no such assessment order has been passed by 31st March 2023.

8 The Petitioner has further submitted that since Respondent No. 1 did not pass any assessment order until 31st March 2023, it *vide* letters dated 10th October 2024, 18th November 2024, 01st August 2025 and 02nd January 2026, requested Respondent No. 1, to accept its return of income. However, Respondent No. 1 did not act upon those letters. Hence, the present writ petition.

9 Accordingly, the Petitioner has submitted that in the absence of any assessment order having been passed within the aforementioned limitation period, and upon expiry of time limit to pass the same, the return filed by it for the year under consideration needs to be accepted as such.

10 In these facts, the limited point to be examined is, if the Respondent has not passed any assessment order pursuant to the order of the Tribunal within the limitation prescribed under Section 153 of the Act, then

whether the return of income filed by the Petitioner becomes final.

11 The Petitioner has drawn our attention to the provisions of Sections 153(3) and 153(4) of the Act, the relevant portion of which is reproduced hereunder:

“(3) Notwithstanding anything contained in sub-sections (1), (1A) and (2), an order of fresh assessment or fresh order under section 92CA, as the case may be, in pursuance of an order under ... section 254 ..., setting aside or cancelling an assessment, or an order under section 92CA, as the case may be, may be made at any time before the expiry of nine months from the end of the financial year in which the order under ... section 254 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or, as the case may be...:

Provided that where the order under ... section 254 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or, as the case may be, ... on or after the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words "nine months", the words "twelve months" had been substituted.

... ..

(4) Notwithstanding anything contained in sub-sections (1), (1A), (2), (3) and (3A), where a reference under sub-section (1) of section 92CA is made during the course of the proceeding for the assessment or reassessment, the period available for completion of assessment or reassessment, as the case may be, under the said sub-sections (1), (1A), (2), (3) and (3A), shall be extended by twelve months.”

12 Section 153(3) of the Act *inter-alia* provides that where the

Tribunal has set aside the assessment made by the AO or the order of the TPO passed under Section 92CA of the Act, then the AO / TPO is required to pass a fresh assessment order under Section 143(3) of the Act / fresh order u/s 92CA of the Act, within 12 months (as is relevant in the present case) from the end of the financial year in which the order of Tribunal is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

13 Further, Section 153(4) of the Act *inter-alia* provides that where a reference is made to the TPO under Section 92CA(1) of the Act during the course of assessment, then the time limit available to the AO to make a fresh assessment under Section 153(3) is further extended by 12 months.

14 In the present case, Mr. Mishra, appearing on behalf of Respondent No. 1, has not disputed that the order of the Tribunal dated 17th July 2020 was received by the authority prescribed in Section 153(3), during Financial Year 2020-21. The same is also supported by the fact that the TPO communicated the order giving effect to the directions of the Tribunal, to the AO in Financial Year 2020-21. Meaning thereby that the Tribunal's order must have been received during Financial Year 2020-21.

15 Accordingly, the limitation period under Section 153(3) read with Section 153(4) of the Act for completing an assessment pursuant to the remand by the Tribunal, shall be as under:

Particulars	Date
Order passed by the Tribunal, in appeal against the Final Assessment Order	17.07.2020
TPO communicated order giving effect to the directions of the Tribunal on the issue of corporate guarantee, to the AO	17.02.2021
PCCIT / CCIT / PCIT / CIT received Tribunal's order	FY 2020-21
Limitation as per Section 153(3) <i>12 months from the end of FY in which PCCIT / CCIT / PCIT / CIT received Tribunal's order</i>	31.03.2022
Limitation as per Section 153(4) <i>Extended by 12 months on account of reference to Transfer Pricing Officer</i>	31.03.2023

16 Mr. Mishra accepts that no assessment order pursuant to the remand by the Tribunal has in fact been passed by Respondent No. 1 by 31st

March 2023. However, he contends that the return of income filed by the Petitioner cannot be accepted as such. In this regard, he submitted that the Tribunal had restricted the transfer pricing adjustment on corporate guarantee to 0.50% till July as against 1.50% made by the TPO for the entire year. Therefore, there was final determination by the Tribunal on this issue. Further, the TPO had also passed the order giving effect to the directions of the Tribunal on this issue. Hence, the absence of order giving effect to the order of Tribunal by Respondent No. 1 would not have the effect of disturbing / nullifying the findings on this issue which have already attained finality, and which was also not the subject matter of remand by the Tribunal. The consequences of limitation would operate only in respect of the issues which were specifically remanded by the Tribunal for fresh examination.

17 It is thus an undisputed fact that Respondent No. 1 has not passed any assessment order pursuant to the order of the Tribunal by 31st March 2023, being the limitation prescribed in Sections 153(3) r.w.s. 153(4) of the Act.

18 We do not agree with the submissions made by Mr. Mishra that the return of income cannot be accepted as such, even in the absence of an order giving effect to the order of the Tribunal by the AO. We are of the view that the non-passing of an order giving effect to the order of the Tribunal /

assessment order by Respondent No. 1 by 31st March 2023 has barred any demand to be raised upon the Petitioner and therefore, the return of income filed by the Petitioner needs to be accepted as such. Where Respondent No. 1 was obliged to comply with the directions of the Tribunal and complete the assessment upon remand, the inaction on his part to pass any assessment order within the limitation cannot disturb the income returned by the Petitioner.

19 We find support from the decision relied upon the Petitioner, in the case of ***CIT v. Shelly Products [2003] 261 ITR 367 (SC)***. Therein, the Hon'ble Supreme Court observed as under:

“30. What then is the effect of the failure to make an order of assessment after the earlier assessment made is set aside or nullified in appropriate proceedings? If the assessing authority cannot make a fresh assessment in accordance with the provisions of the Act it amounts to deemed acceptance of the return of income furnished by the assessee. In such a case the assessing authority is denuded of its authority to verify the correctness and completeness of the return, which authority it has while framing a regular assessment. It must accept the return as furnished and shall not in any event raise a demand for payment of further taxes. Accepting the income as disclosed in the return of income furnished by the assessee, it must refund to the assessee any tax paid in excess of the liability incurred by him on the basis of income disclosed. Even if the tax paid is found to be less than that payable, no further demand can be made for recovery of the balance amount since a fresh assessment is barred. In other words, the tax paid by the assessee must be accepted as it is, and in the event of the tax paid

being in excess of the tax liability duly computed on the basis of return furnished and the rates applicable, the excess shall be refunded to the assessee, since its retention may offend Article 265 of the Constitution.”

20 An identical controversy also arose before this Court in *Plasticotes Investments (P.) Ltd. v. CCIT [2014] 52 taxmann.com 483 (Bombay)*. In this case, the CIT(A) had restored the assessment to the file of the AO for denovo adjudication. However, the AO did not comply with the directions for fresh assessment and in due course, the time to pass the assessment order had expired. In view of the failure of the AO to pass any assessment order, the assessee demanded refund of tax and interest paid by it. In light of these facts, this Hon’ble Court held as under:

“7. The stand of the Assessing Officer that no refund could be granted as no assessment order on remand could be passed because copy of the order dated 14 January 1999 of the CIT(A) was not served upon him is not acceptable for the reason that the Assessing Officer could have himself called for a copy of the same from the office of the CIT(A). In any case a copy of the order dated 14 January 1999 was served upon the Assessing Officer with a copy of this petition some time in 2005 and since then no order of assessment has yet been passed by the Assessing Officer. Once CIT(A) has remanded the proceedings to the Assessing Officer for passing a fresh assessment order it is not open to the Assessing Officer not to carry out the directions of the CIT (A) to the detriment of the assessee. If the revenue’s submission that no refund can be granted to an assessee consequent to an order passed in an appeal unless the Assessing Officer passes a fresh assessment order is accepted then in

that event Revenue would be able to deprive all assesseees of their property without the authority of law by merely stating that it are helpless on account of its failure to pass an assessment order consequent to an order of appeal. The Revenue's submission is an attempt to justify its conduct by taking advantage of its own wrong to deprive the citizen of its money.”

21 Similarly, in ***Aircom International India (P.) Ltd. v. DCIT [2024]***
159 taxmann.com 148 (Delhi), the Delhi High Court held as under:

‘6. Accordingly, the present batch of matters is disposed of with a direction to the AO to pass appeal effect orders in accordance with law within eight weeks. In the event, the AO has not passed the assessment orders in accordance with the orders of remand passed by the ITAT within the time stipulated under Section 153(3) read with Section 153(4) and Section 153(5) of the Act, the returned assessments are directed to be accepted on the said issues....’

22 We are therefore of the view that the return of income filed by the Petitioner for the year under consideration (AY 2014-15) has to be accepted as such.

23 In view thereof, we allow the present writ petition in terms of prayer clause (a), which is reproduced hereunder:

“(a) that this Hon’ble Court may be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction under Article 226 of the Constitution of India, ordering and directing

the Respondent No. 1 to accept the income returned by the Petitioner for AY 2014-15.”

24 Rule is made absolute in the above terms, and the Writ Petition is also disposed of in terms thereof. No order as to costs.

25 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.]