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

WRIT PETITION (L) NO.8284 OF 2026

Samir N. Bhojwani, Mumbai .. Petitioner

Versus

Principal Commissioner of Income Tax,
Mumbai and Ors. .. Respondents

Mr.Jehangir Mistri, Sr.Advocate a/w Ms.Ritu Punjabi a/w Mr.Atul Jasani, Advocates *for the Petitioner.*

Mr.Subir Kumar a/w Ms.Niyanta Trivedi, Advocates *for the Respondents.*

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

DATE: MARCH 23, 2026

P. C.

1. The above Writ Petition is filed *inter alia* seeking the following relief:

> *"(a) that this Hon'ble Court may be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate Writ, Order or direction, calling for the records of the Petitioner's case and after going into the legality and propriety thereof, to quash, cancel and expunge the direction/instruction / observation given by Respondent No. 1 in the last paragraph of the impugned order dated 03 February 2026 passed under section 264 of the Act (annexed and marked as Exhibit 'G') to the extent that the benefit of applicability of tax*

rate as per section 112 to the gains arising under section 50 of the Act has been subjected to the outcome of the Writ in SKF (India) Limited's case."

2. The Assessment Year in question is 2019-20. Basically, the paragraph, that the Petitioner seeks expunged reads thus:

> *"The AO must keep in mind that the above decision is subject to any outcome of Writ filed in the case of SKF(India) Ltd. before the Hon'ble Bombay High Court and in case of decision of Hon'ble High Court in SKF(India) Ltd. is in favour of revenue, the consequential effect will automatically arise on the part of the AO."*

3. On the last occasion, when we enquired from Mr.Kumar as to how the Commissioner exercising jurisdiction under Section 264 could pass such a direction, he sought time to take instructions. That is how the matter has come up today.

4. Today, Mr.Kumar, on instructions, states that the aforesaid paragraph can be expunged. He has also stated that the Order passed by the Commissioner exercising powers under Section 264 has been given effect to by the Assessing Officer vide his Order dated 20th March 2026. A copy of that Order is also tendered to the Court today.

5. Mr.Mistri submitted that, though the Order giving effect has been passed, no refund has been paid to the Petitioner pursuant to the aforesaid Order.

6. Considering the facts and circumstances stated by us above, we hereby expunge the last paragraph set out in the Order of the Commissioner dated 3rd February 2026 and which is reproduced by us above. Since the Order giving effect (OGE) to the Order passed by the Commissioner (under Section 264 of the Act) is already passed by the Assessing Officer on 20th March 2026, we direct that the refund as contemplated under the said OGE shall be paid to the Petitioner as expeditiously as possible and, in any event, within a period of four weeks from today.

7. A copy of this Order shall be forwarded by the Assessing Officer to the CPC immediately so as to enable it to process the refund to the Petitioner as per the OGE Order dated 20th March 2026.

8. Writ Petition is disposed of in the aforesaid terms. However, there shall be no order as to costs.

9. Though we have disposed of the above Writ Petition, we place it on board for reporting compliance on 20th April 2026.

10. 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.]**

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