

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

WRIT PETITION NO. 218 OF 2018

Suresh M. Jamkhindikar .. Petitioner.
v/s.
The Asst. Commissioner of Income Tax
Circle 22(3) & Others .. Respondents.

Mr. R. Muralidhar with Mr. Rohan Deshpande, for the Petitioner.
Mr. Sham Walve, for Respondent Nos.1 and 2.

**CORAM: M.S.SANKLECHA &
SANDEEP K. SHINDE, JJ.**
DATE : 20th APRIL, 2018.

P.C:-

This Petition under Article 226 of the Constitution of India, filed by the Senior Citizen of 82 years of age. This Petition, challenges the orders dated 22nd February, 2012 and 4th October, 2017 passed by the Assessing Officer, rejecting the Petitioner's application for rectification under Section 154 of the Income Tax Act, 1961 (the Act). The Petitioner by its application dated 24th May, 2000 sought rectification of the intimation issued under Section 143(1) of the Act, for Assessment Year 1997-98.

2 The Principal Commissioner of Income Tax-22 – Mr. Sachchidanand Srivastav has filed an affidavit dated 19th April, 2018. From the affidavit, it is clear that he has taken stock of the facts arising in

this Petition. The affidavit very fairly states that in view of the order of the Commissioner of Income Tax (Appeal) along with the material available on record, it is clear that the Assessing Officer ought to have allowed the rectification application in respect of Assessment Year 1997-98. The Commissioner of Income Tax has in his affidavit assured us that the issue would be resolved promptly and the refund along with interest thereon in accordance with the provisions of law, shall be granted to the Petitioner-Assessee, preferably within the period of six weeks from today. The affidavit also record the regret on the part of the Revenue for the inconvenience caused to the Petitioner-Assessee.

3 In the above view, the impugned orders dated 22nd February, 2012 and 4th October, 2017, are quashed and set aside.

4 Before parting, we would like to place on record our sincere appreciation for the proactive and sensitive manner in which the Commissioner of Income Tax – Mr. Sachchidanand Srivastava has intervened to ensure that injustice caused to the party is addressed. Moreover, very graciously he places on record his regrets for the inconvenience caused to the Petitioner for acts of his department. This, indeed, is a very commendable and fair gesture, which is rarely noticed on the part of the Revenue. All we can say if such conduct would become the norm, the department itself would gain as the fairness in dealing with an assessee would automatically result in greater compliance of the laws by the tax payer. This secure in the belief the tax department would be fair and not treat the assessee as its enemy/adversary.

5 In the above view, **Petition is allowed** in the above terms. No order as to costs.

6 Registry is directed to serve a copy of this order on the Central Board of Direct Taxes, New Delhi.

(SANDEEP K. SHINDE,J.)

(M.S.SANKLECHA,J.)

