IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.10175 OF 2026
[@ SPECIAL LEAVE PETITION (C) No. 27302 OF 2026]
[@ DIARY NO.48823 OF 2025]

Deputy Commissioner of Income Tax,
CPC & Ors.

…Appellants

Versus

M/s Om Siddhakala Associates

…Respondent

O R D E R

Delay condoned. Leave granted.

2. The appeal is from an order in the Writ Petition, which remanded the matter to be considered afresh.

3. We heard learned Standing Counsel appearing for the Department and learned Counsel for the respondent. While learned Counsel for the Department submits that the demand raised was in accordance with the returns filed. Without filing a revised return, the demand was challenged under Section 264 of the Income Tax Act, 1961[1], which when dismissed, the respondent-assessee had approached the High Court. The claim raised could not have been made especially, since there was no revision of returns filed by the assessee. The learned Counsel for the assessee on the other hand submits that the impugned order is a mere remand made and all contentions could be raised before the appropriate authority.

4. We are not convinced that the remand, in the facts and

1 For brevity, 'the Act'

circumstances of the case, was permissible. Admittedly, on self-assessment, a return was filed by the assessee which was processed by the Centralised Processing Centre, Income Tax Department, Bengaluru and a notice was issued under Section 143(1) and a subsequent notice under Section 156, demanding the outstanding tax as coming out from the returns filed on self-assessment. The respondent filed a revision invoking Section 264 of the Act before the Principal Commissioner of Income Tax, who rejected the same on the ground that there was unexplained delay, the tolerance limits as coming out from Section 43CA were only prospective and that by side-wind the attempt is to revise the return, after the period had expired, by invoking Section 264.

5. The issue of tolerance limit was not raised in the self-assessment nor was the assessment revised within the time provided. The High Court, hence, fell in error, insofar as the remand made. The assessee having not claimed the same in the returns filed could have revised the return within the time provided under the Act. When that was not done, there is no question of revision under Section 264, which would be an attempt to revise the return under the garb of a revision.

6. Learned Counsel for the respondent-assessee submits that there has been re-assessment made after remand. Necessarily, if

the remand order is set aside, the order passed on re-assessment will also have no effect, being a dependent order. We hence set aside the impugned judgment of the High Court and as a consequence any re-assessment made would not be applicable. The assessee would have to pay tax on the basis of the returns filed on which an intimation was issued and a demand raised.

7. The appeal is allowed to that extent clearly observing that we have not entered into the question of whether the tolerance limit would be retrospective or prospective.

8. Pending application(s), if any, shall also stand disposed of.

.... J.
(J.B. PARDIWALA)

.... J.
(K. VINOD CHANDRAN)

NEW DELHI
AUGUST 05, 2026.

ITEM NO.29 COURT NO.6 SECTION IX-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) Diary No.48823/2025

[Arising out of impugned final judgment and order dated 28-03-2024 in WP No. 14178/2023 passed by the High Court of Judicature at Bombay]

DEPUTY COMMISSIONER OF INCOME TAX, CPC & ORS. Petitioner(s)

VERSUS

M/S OM SIDDHAKALA ASSOCIATES Respondent(s)

(IA No. 50086/2026 - CONDONATION OF DELAY IN FILING SLP AND IA No. 50089/2026 - CONDONATION OF DELAY IN REFILING SLP)

Date : 05-08-2026 This matter was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE K. VINOD CHANDRAN

For Petitioner(s) :
Mr. Venkataraman Chandrashekhara Bharathi, Adv.
Mr. Sudarshan Lamba, AOR
Mr. Udai Khanna, Adv.
Mr. Padmesh Mishra, Adv.
Mr. Mukesh Kumar Verma, Adv.

For Respondent(s) :
Mr. Rajat Mittal, AOR
Mr. Sanket S Bora, Adv.
Ms. Vidhi K Punmiya, Adv.
Mr. Subham Kumar, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Delay condoned.

2. Leave granted.

3. The appeal is allowed to that extent clearly observing that we have not entered into the question of whether the tolerance limit would be retrospective or prospective, in terms of the signed order.

4. Pending application(s), if any, shall also stand disposed of.

(VISHAL ANAND)
DEPUTY REGISTRAR

(POOJA SHARMA)
COURT MASTER (NSH)

(Signed Order is placed on the file)