IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1784 OF 2015

Shri.Maruti Nivrutti Navale. ...Petitioner
Vs.
1.Mr.M.K.Varma, Asstt. Commissioner of Income Tax & Anr. ... Respondents

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Mr.Jehangir Mistri, Senior Advocate with Mr.Nitin S.Dhumal, for the Petitioner.

Mr.Tejveer Singh, for the Respondent no.1.

CORAM : ***M.S.SANKLECHA &*** **G.S.KULKARNI,** ***JJ.***

DATE : 20th FEBRUARY, 2015

P.C. :

1. This petition under Article 226 of the Constitution of India challenges the order dated 16.1.2015 passed by the Income Tax Appellate Tribunal (the Tribunal), Pune. By the impugned order, the Tribunal has disposed of the petitioner's stay applications in pending appeals relating to Assessment Years 1999-2000 to 2006-07 and 2009-10.

2. The demand in aggregate for all the Assessment Years is approximately Rs.13.81 crores. At the hearing of the stay applications, the applicant sought to make out a prima facie case as well as financial hardship warranting stay of the demand. During the course of hearing, the petitioner had submitted a chart indicating the additions made and the reasons for deleting the additions which would lead to a grant of stay of the demands. The impugned

order does make reference to the chart submitted by the petitioner during the course of hearing, however, the impugned order does not deal with the petitioner's submissions as evident from the chart and merely goes on to hold that "the applicant has not made prima facie case for the purpose of adjudicating the present petitions and balance of convenience is against the applicant."

3. We find that the impugned order does not deal with the petitioner's submissions as evident from the chart nor does it particularise the basis of its conclusion that balance of convenience is against the petitioner. It has been held repeatedly by this Court that while disposing of stay application though a detailed order need not be passed, yet very briefly the petitioner's case must be set out alongwith the submissions in support of the same and very briefly the consideration of the submissions leading to its conclusion of either granting the stay or rejecting the stay. In the present facts, we find that the impugned order is bereft of any reason. Thus, the impugned order to the above extent cannot be sustained as the Tribunal would be required to pass a stay order keeping the above observation in mind.

4. We do not disturb the directions of the Tribunal of out of turn hearing in respect of the appeals filed by the petitioner on 27.4.2015 nor the findings that the petitioner failed to establish financial hardship. In the above circumstances, the impugned order of the Tribunal is set aside only to the extent it rejects the petitioner's applications for stay on account of Tribunal's observation that 'no prima facie case has been made by the petitioner before them.' All other

findings of the Tribunal with regard to financial hardship as well as with regard to grant of early hearing, are not disturbed. We would request the Tribunal to dispose of the petitioner's applications for stay on account of prima facie case as expeditiously as possible and not later than four weeks from today.

5. Needless to say, till such time the Tribunal disposes of the petitioner's stay applications on its prima facie case as directed by us hereinabove, the respondent – Revenue shall not adopt any coercive proceedings against the petitioner.

6. Petition disposed of in above terms. No order as to costs.

*(*G.S.KULKARNI, *J.)* *(*M.S.SANKLECHA, *J.)*