IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (Lodg) NO.337 OF 2015

1.Zulfikar Jeewanjee Moriswala & Anr. ...Petitioners
vs.
1.Deputy Commissioner of Income Tax & Ors. ...Respondents

Mr.Sameer Dalal, for the Petitioners.

Mr.Arvind Pinto, for the Respondents-Revenue.

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

DATED: 5th MARCH,2015.

P.C.:-

1. This petition has been filed seeking a direction to the respondents-Revenue to accept the petitioners' returns of income for the Assessment Year 2014-15 which were not being accepted in view of non deposit of tax deducted at source by respondent No.5.

2. Briefly the facts leading to this petition are that the petitioners are non-resident Indian who sold their property to respondent No.5. Respondent No.5 while paying consideration to the petitioners deducted Rs.1.23 crores as TDS but failed to deposit the same with the Revenue. The petitioners repeatedly

requested the respondent No.5 to deposit the TDS and also the respondent-Revenue to take action against respondent No.5 as non deposit of TDS was causing them prejudice. This was for the reason that they are unable to upload their returns of income for the Assessment Year 2014-15.

3. After filing of this petition, the respondent No.5 has deposited the tax deducted at source alongwith interest and the petitioners have been able to upload their returns of income for the Assessment Year 2014-15 on 28.2.2015. Mr.Pinto, learned Counsel for the Revenue, on instructions, states that the respondent-revenue will, on the basis of the facts stated in the petition, not charge any interest under Section 234A of the Income Tax Act,1961 for default in furnishing of return of income in time nor interest under Section 234B and 234C of the Act will be charged for default in payment of advance tax. In support thereof, an affidavit dated 5.3.2015 of Mr.K.A.Paryani, Income Tax Officer – the respondent No.2 in the petition is taken on record.

4. In view of the above, the petition becomes infructuous. Therefore, petition is dismissed as withdrawn.

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