

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

NOTICE OF MOTION NO. 1006 OF 2009

The Commissioner of Income Tax-21,
Mumbai

..Applicant

Vs.

Savistridevi Ringshia

..Respondent

....

Mr. Suresh Kumar a/w N.A. Kazi, Advocates for Applicant.

Mr. Pankaj R. Toprani and Ms. Keyuri Y. Desai, Advocates for Respondent.

....

**CORAM : M.S. SANKLECHA &
N.M. JAMDAR, JJ.**

DATED : 12th JUNE 2015

P.C.:

This Notice of Motion seeks to recall the order dated 21 August 2008 dismissing the revenue's appeal in default.

2. The present Notice of Motion was taken out in 2009 and for a period of six years thereafter the revenue has made no attempt to mention the matter for early disposal. The order dated 21 August 2008 does make observations regarding attitude of the revenue and sort of assistance rendered by the Counsel appearing for revenue.

3. Mr. Suresh Kumar, the learned Counsel appearing for revenue tenders an unconditional apology for the delay in taking out Notice of Motion and also for not having been able to assist the Court when the order dated 21 August 2008 was passed.

4. As the revenue's appeal has not been considered on merits, we are inclined to restore the appeal for consideration. However looking at the attitude of the revenue, the appeal is restored subject to a payment of cost of Rs.2,500/- to the respondent-assessee as condition precedent. The revenue shall pay cost of Rs.2,500/- to the respondent-assessee within a period of two weeks from today i.e. on or before 26 June 2015. The appeal be listed for admission on 29 June 2015.

[N.M. JAMDAR, J]

[M.S. SANKLECHA, J.]