IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

W.T.R. 56B of 1982
The Commissioner of Wealth-tax Vs. Shri V.D. Saraf (HUF) Kathmandu.

--Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.

Court's or Judge's Orders.

CORAM : B.P. Dharmadhikari &
A.P. Bhangale, JJ.
DATE : 17th February, 2015.

Heard Advocate Parchure for the applicant and Advocate Dewani for the respondent.

Our attention has been invited to the orders dated 16th September, 2010 passed in Wealth Tax Reference No.46 of 1982 between parties. Those proceedings were disposed of because of tax effect considering the judgment in case of CIT Vs. Pithwa Engineering Works reported at **(2005) 276 IT 519 (Bom)**.

The parties have invited our attention to Instruction No.5 of 2008 dated 15th May, 2008 particularly paragraph no. 5 which requires independent consideration of tax effect of each year and the decision to file appeal in relation to such year. The subsequent Instruction No.3 of 2011 is also pointed out to this Court particularly paragraph 10 therein.

It is not in dispute that as per Clause 10 therein, the present Wealth Tax Reference is regulated by Instruction No. 5 of 2008. The Division Bench of this Court in CIT Vs. Madhukar K.Inamdar (HUF) reported at **(2010) 229 CTR Bombay 77** has held that it applies also to the pending proceedings.

Perusal of the impugned order shows that for assessment year 1970-1971 tax demand was of Rs. 1,03,400/-, for assessment year 1971-72 it was Rs.1,64,760/-, for the year 1972-1973 it was Rs. 2,50,000/-, for 1973-1974 it was Rs. 2,64,815/- and for last year i.e. 1974-1975 it was Rs. 2,97,222/-. Thus, every year as also together the tax effect is less than Rs. Four lakhs, as contemplated in paragraph 3 of Instruction no.5 of 2008.

We, therefore, find that the Wealth Tax Reference need not be answered because of the position noted supra.

Accordingly, Wealth Tax Reference is returned back to the Department.

JUDGE **JUDGE**

Ambulkar