Dixit

<u>IN THE HIGH COURT OF JUDICATURE AT BOMBAY</u>

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.4850 OF 2014
<u>ALONG WITH</u>
CRIMINAL WRIT PETITION NO.4851 OF 2014
<u>ALONG WITH</u>
CRIMINAL WRIT PETITION NO.4852 OF 2014
<u>ALONG WITH</u>
CRIMINAL WRIT PETITION NO.4853 OF 2014
<u>ALONG WITH</u>
CRIMINAL WRIT PETITION NO.4854 OF 2014
<u>ALONG WITH</u>
CRIMINAL WRIT PETITION NO.4855 OF 2014
<u>AND</u>
CRIMINAL WRIT PETITION NO.4856 OF 2014

Amar Singh,
Assistant Commissioner of Income Tax,
Central Circle-2, Mumbai. …. Petitioner

Versus

Hasan Ali Khan & Anr. …. Respondents

Mr. J.R. Solanki, P.P. for Income Tax Department, for the Petitioner.

Mr. Ranjeet V. Sangle a/w. Mr. Saurabh V. Patil and Mr. Hitesh B. Sangle, for Respondent No.1.

CORAM : <u>DR. SHALINI PHANSALKAR-JOSHI, J.</u>

DATE : <u>23RD FEBRUARY 2016.</u>

<u>P.C.</u> :

1. These Petitions are preferred by the Assistant Commissioner of Income Tax, Central Circle-2, Mumbai, who is Original Complainant in CC No.34/SW/2013, CC No.35/SW/2013, CC No.36/SW/2013, CC

No.37/SW/2013, CC No.38/SW/2013, CC No.39/SW/2013 and CC No.40/SW/2013, respectively, pending on the file of the Additional Chief Metropolitan Magistrate, 38th Court, Ballard Pier, Mumbai, challenging the orders dated 21st August 2014 directing the Petitioner to produce original documents, on which the Petitioner is relying, and further the request of the Petitioner for giving directions to Respondent No.1-Accused to verify the original documents and then file certified copies on record being rejected.

2. On perusal of the orders of the Trial Court, apparently there is absolutely no error on record. These are the very documents on which the Petitioner-Complainant is relying in its prosecution against Respondent No.1, under Section 276CC of Income Tax Act, for non-filing of Income Tax Return in spite of having taxable income. The case before the Magistrate is at the stage of recording evidence before the charge. At that stage, the original documents were required by Respondent No.1-Accused and these are the documents which were very much relied upon by the Petitioner.

3. In such circumstances, the Trial Court was justified in directing the Petitioner to produce the original documents on which they are relying. As regards the request of the learned counsel for the Petitioner that his original documents may be required for the inquiry of SIT and by other agencies also, it can be made clear that the Petitioner may apply to the learned Magistrate for return of those documents as and when they are required by keeping their certified copies on record.

4. With this clarification, the Writ Petitions are disposed of.

[DR. SHALINI PHANSALKAR-JOSHI, J.]