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

INCOME TAX REFERENCE NO.163 OF 2000

Shri V.S. Kandodia .. Applicant
v/s.
The Commissioner of Income Tax,
Mumbai City – IX, Mumbai .. Respondent

Mr. Jitendra Singh for the applicant
None for the respondent

CORAM : M.S. SANKLECHA &
A.K. MENON, J.J.
DATED : 5th DECEMBER, 2016.

P.C.

1. This Reference under Section 256(1) of the Income Tax Act, 1961 (the Act) relates to Assessment Years 1984-85 and 1985-86. None appears for the respondent assessee.

2. The applicant assessee has filed an affidavit dated 14th July, 2016 evidencing the service of the Reference upon the Revenue only in June, 2015. We specifically asked him whether the Reference was served earlier upon the respondent Revenue and if so was it in accordance with Rule 658 of the Bombay High Court (Original Side) Rules (Rules). Mr. Jitendra Singh, learned Counsel for the applicant fairly states that there is no evidence of service on the respondent Revenue prior to June, 2015.

3. In terms of Rule 658 of the Rules, the person at whose instance the Reference has been made by the Tribunal to this Court, shall apply to the Prothonotary and Senior Master to issue a notice fixing a date for hearing of the Reference. Moreover, this notice is to be served upon the opposite party within a period of two months from the receipt of the Reference in the High Court from the Tribunal.

4. The applicant assessee has not carried out its obligation as required under Rule 658 of the Rules. Even, the notice which has been served upon the respondent Revenue in June, 2015 is not in accordance with Rule 658 of the Rules as in fact no application under Rule 658 appears to have been made to the Prothonotary and Senior Master to have a notice issued after fixing a date for the hearing of this Reference.

5. From the above, it is evident that the applicant is not interested in pursuing this Reference.

6. Therefore, Reference is returned unanswered.

7. The Reference is disposed of in the above terms.

(A.K. MENON, J.) **(M.S. SANKLECHA, J.)**