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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1596 OF 2016

Brijmohan Sagarmal Capital
Services Pvt. Ltd. ..Petitioner
Versus
Income Tax Appellate Tribunal ..Respondent

....
Mr. Pankaj Toprani a/w Ms. Krupa Toprani i/b. PRH Juris Consults for the Petitioner.
Mr. Ashok Kotangle for the Respondent.
....

CORAM: M. S. SANKLECHA &
A. K. MENON, JJ.

DATE : 10th AUGUST, 2016

P.C.:

This petition challenges the order dated 18th January, 2016 passed by the Income Tax Appellate Tribunal (Tribunal) under Section 254(2) of the Income Tax Act, 1961 (the Act). The impugned order dated 18th January, 2016 rejected the petitioner's application for rectification/modification of the order dated 24th July, 2015 passed by the Tribunal in the Revenue's appeal against the order of the Commissioner of Income Tax (Appeals) (CIT(A)) dated 28th June, 2013 relating to A.Y. 2010-11.

2. We find that although the impugned order has been passed on 18th January, 2016. This petition has been filed only on 21st June, 2016. Paragraph 13 of the peetition reads as under:-

> *"13. The petitioner says that the impugned Misc. Application Order dated 18.01.2016 was received by the petitioner on 25.01.2016 and therefore, there has been no delay whatsoever on its part in filing the present petition. The petitioner submits that on rejection of Misc. Application by respondent no.1, it thought that it had no alternate and efficacious remedy. However it sought legal advice and was advised to file this present Writ Petition. The petitioner submits that it took about five months in seeking legal advice."*

3. From the aforesaid averments, it is clear that according to the petitioner there is no delay in filing the petition and that the petitioner took five months in seeking legal advice. It is also noted that the petitioner has already filed an appeal under Section 260A of the Act from the order dated 24th July, 2015 to this Court and it is pending admission. In our view, the petition suffers gross delay and laches. Consequently, we see no reason to entertain the petition.

4. The petition is dismissed. No order as to costs.

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

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