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

REVIEW PETITION (L) NO. 56 OF 2008
IN
INCOME TAX APPEAL NO. 388 OF 2008

The Commissioner of Income Tax
City-XIV, Mumbai .. Petitioner

v/s.

M/s. Parsi Dairy Farm .. Respondent

Mr. A.R. Malhotra a/w N.A. Kazi for the petitioner
Mr. Nishant Thakkar a/w Atul Jasani for the respondent

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

DATED : 5th AUGUST, 2016.

P.C.

1. This petition seeks to review the order dated 28th August, 2008 passed by this Court dismissing the Revenue's appeal by placing reliance upon the decision of the Apex Court in ***Sahara India (Firm) Vs. Commissioner of Income Tax, 300 ITR 403.***

2. This petition was filed in 2008. The Revenue thereafter has taken no steps to pursue the present petition. In fact, the objections to the present petition were removed only on 1st March, 2016. After the objections were removed the petition was numbered and it appeared on

board on 1st July, 2016 and was adjourned from time to time.

3. The learned Counsel for the Revenue was specifically asked as to why Revenue did not move this Review Petition for a period of 8 years and particularly before the Judges who constituted the bench passing the order dated 28th August, 2008. Moreso, when the members of the Bench which passed the order were available till one demitted office in 2012 and the other in 2013.

4. Mr. Malhotra, learned Counsel for the Revenue informed us that inspite of his efforts, no instructions on this aspect are forthcoming from the Officers of the Revenue.

5. In fact, Rule 874 of the High Court (Original Sides) Rules specifically mandates that the person who files a Review Petition of the order passed by this Court, shall as early as possible, move to a Judge who has passed the order which is sought to be reviewed. On the aforesaid ground of delay and negligence alone, we see no reason to entertain the Review Petition.

6. In any event, the petition is misconceived as the order dated

28th August, 2008 cannot be a subject matter of Review on the basis of the decision of the Apex Court in *Sahara India (Firm) (supra)*. This for the reason that it has in fact been referred to and relied upon by the order dated 28th August, 2008 rejecting the Revenue's appeal at which time, the Revenue was also represented.

7. In the above view, the Review Petition is dismissed. No order as to costs.

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