IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3578 OF 2017

Nandu Atmaram Wajekar .. Petitioner

v/s.

Union of India through
Ministry of Finance, through
The Principal Commissioner of Income Tax-2
Thane .. Respondent

Mr. Shirin Shaikh i/b Raval Shah & Co. for the petitioner
Mr. Suresh Kumar for the respondent

CORAM : M.S. SANKLECHA &
S.C. GUPTE, J.J.

DATED : 5th APRIL, 2017

P.C.

1. This petition under Article 226 of the Constitution of India seeks a direction to the Principal Commissioner of Income Tax, Thane to accept a sum of Rs.1.19 crores being the amount of 25% tax payable by the petitioner on declared undisclosed income under the Income Declaration Scheme, 2016 even after the specified date to make the payment.

2. The petitioner had on 30th September, 2016 filed a declaration under the Income Declaration Scheme, 2016 (part of the Finance Act,

2016) declaring a total undisclosed income of Rs.11.59 crores for Assessment Years 2014 and 2015 determining the total tax payable (including penalty) thereon at Rs.5.21 crores. In terms of the Notification issued under Section 183 of the Income Declaration Scheme, the petitioner is required to pay 25% of the tax payable on or before 30th November, 2016, further amounts payable on or before 31st March, 2017 and 30th September, 2017. The petitioner has failed to pay the tax which he was obliged to pay before 30th November, 2016.

3. The petitioner's grievance is that he was unable to deposit the amount of Rs.1.19 crores being the 25% which he was required to deposit before 30th September, 2017 under the Income Declaration Scheme, 2016 in view of the demonetization of Rs.500/- and Rs.1000/- currency notes on 8th November, 2016. Thus, he seeks a direction to the respondent Revenue to now accept Rs.1.19 crores which he was unable to deposit on or before 30th November, 2016.

4. We asked the learned Counsel appearing for the petitioner whether there is any provision under the Scheme or in the Rules made thereunder, which would permit the Authorities acting under the Scheme to accept payment made consequent to the declaration filed

under the Scheme even after specified date to make a part payment of tax has passed. We were informed there is no such provision. Therefore, the direction sought from us is that the Commissioner of Income Tax, Thane act *dehors* the provisions of the Income Declaration Scheme, 2016. We will not issue any such directions as the Authorities are obliged to act in accordance with the Income Declaration Scheme, 2016 which is a part of the Finance Act, 2016.

5. It must be borne in mind that the Scheme was optional, the dates of payment were known at the time of filing the declaration and above all it is a facility which has been made available to parties who have failed to disclose their income and pay the appropriate tax under the Income Tax Act, 1961, to come clean. In the above view, we see no reason to exercise our extraordinary writ jurisdiction in these facts.

6. Accordingly, the Petition is dismissed. No order as to costs.

(S.C. GUPTE, J.) **(M.S. SANKLECHA, J.)**