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

NOTICE OF MOTION NO. 2994 OF 2016
IN
INTEREST TAX APPEAL (L) NO. 3 OF 2013

Commissioner of Income Tax (LTU) .. Applicant

In the matter between

Commissioner of Income Tax (LTU) .. Appellant

v/s.

M/s. Union Bank of India .. Respondent

Mr. A.R. Malhotra a/w Mr. N.A. Kazi for the applicant / appellant
Ms. Nupur Awasthi i/b Consulta Juris for the respondent

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

DATED : 13th JANUARY, 2017.

P.C.

1. This notice of motion has been taken out to set aside the order dated 14th July, 2016 passed by the Prothonotary and Senior Master rejecting the appellant's application under Rule 986 of the Bombay High Court (O.S.) Rules, besides seeking condonation of delay in filling the present application. The order dated 14th July, 2016 passed by the Prothonotary and Senior Master was a conditional order directing the appellant to pay the Court Fees, if not paid, having the appeal numbered on or before 11th August, 2016.

2. The affidavit in support of the notice of motion points out that original records and proceedings relating to the present appeal after having been filed, were misplaced. In the above view, the Revenue had to reconstruct the Appeal Memo and the objections were raised on the reconstructed appeal memo in respect of the payment of Court fees.

3. Mr. Malhotra, the learned Counsel for the Revenue submits that the Court fees had been paid along with the appeal as originally filed. Evidence of the same was in the record which is now misplaced. We find that the Registry has recorded on 6th July, 2017 in the brief that the Court Fees were paid in respect of this appeal on 28th June, 2013 by the Revenue.

4. In the above view, as the Court fees had been paid even before the order dated 14th July, 2016 was passed, there was no justification in rejecting the appeal.

5. In the above view, we condone the delay in taking out the notice of motion and allow the motion in terms of prayer clauses (a) and (b).

6. The applicant Revenue is directed to remove the office

objections, if any, within three weeks from today. It is made clear that failing to do so would result in the appeal being dismissed without reference to the Court.

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