IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12515 OF 2017

Mrs. Mugdha Shirish Agarkar ....Petitioner
V/s.
The Principal Chief Commissioner,
Income-Tax, Pune and Ors. ....Respondents

* * * * *

Ms. Pranati Mehra, Advocate for the petitioner.

Mr. Sham V. Walve, Advocate for the respondents.

CORAM :- M.S. SANKLECHA, &
SANDEEP K. SHINDE, JJ.

DATE :- 1ST MARCH, 2018.

P.C. :-

1. This petition under Article 226 of the Constitution of India challenges the order dated 2nd May, 2016 passed by the Assessing Officer rejecting the petitioner's application for rectification made under Section 154 of the Income-Tax Act, 1961.

2. The petitioner is a retired employee of the State Bank of India who took voluntary retirement in the previous year relevant to the Assessment Year 2008-09 under the SBI Exit Option Scheme. The petitioner was not granted the benefit of exemption available to retired employees of SBI Exit Optees under Section 10(10C) of the Act. Thus, the petitioner filed her rectification applications which was rejected by the Assessing Officer on 2nd May, 2016 without grant of personal hearing. It is the petitioner's case that, she is entitled to exemption under Section 10(10C) of the Act as an ex-SBI employee as held by the Bombay High Court in the case of **Commissioner of Income-Tax-III, Pune Vs. Shri. Ramesh Dattatraya Kulkarni** (**Income Tax Appeal No. 1494 of 2013 decided on 9th April, 2015**).

3. In the above view, as admittedly, the impugned order on rectification has been passed in breach of principles of natural justice, i.e. without granting the petitioner a personal hearing, the impugned order dated

2nd May, 2016 is quashed and set aside. The petitioner's rectification applications dated 30th September, 2009 and 4th December, 2015 is restored to the Assessing Officer for fresh disposal after taking into account, the decision of this Court in **Commissioner of Income-Tax-III, Pune Vs. Shri. Ramesh Dattatraya Kulkarn**i (**Income Tax Appeal No. 1494 of 2013 decided on 9th April, 2015**) and Circular issued by the Central Board of Direct Taxes in this regard.

4. In view of the fact that the petitioner is a retired employee, the Assessing Officer is directed to dispose of the rectification applications, as expeditiously as possible in accordance with law preferably within four weeks from today. This after granting personal hearing to the petitioners.

5. Petition is disposed of in above terms. No order as to costs.

(SANDEEP K. SHINDE, J) **(M.S. SANKLECHA, J)**