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

NOTICE OF MOTION NO. 394 OF 2018
IN
INCOME TAX APPEAL (L) NO. 108 OF 2018

Pr. Commissioner of Income Tax-30 .. Applicant
In the matter between
Pr. Commissioner of Income Tax-30 .. Appellant
v/s.
Madhukant V. Shah ..Respondent

Mr. Sham Walve for the applicant
None for the respondent

CORAM : M.S. SANKLECHA &
SANDEEP K. SHINDE, J.J.
DATED : 8th JUNE, 2018.

P.C.

1. The learned Counsel for the Revenue states that the respondent have been served. None appears for the respondent though served. Mr. Walve, learned Counsel for the Revenue undertakes to file affidavit of service within a period of one week from today.

2. This application has been taken out for condonation of 148 days delay in fling the appeal against the order dated 22nd February, 2017 passed by the Income Tax Appellate Tribunal in respect of Assessment Year 2010-11. The affidavit-in-support of the application points out that after the order dated 22nd February, 2017 of the Tribunal was received, the Commissioner of Income Tax took a decision not to file an

appeal from the order dated 22nd February, 2017 of the Tribunal. However, subsequently for the Assessment Year 2009-10, the Tribunal's order dated 14th June, 2017 was appealed against to this Court and the appeal was filed on 30th November, 2017.

3. In the above view, a Committee comprising of the Chief Commissioners of Income Tax reviewed the earlier decision of not filing an appeal in respect of Assessment Year 2010-11. Consequently, on 26th December, 2017, the Committee of Chief Commissioners directed the Commissioner of Income Tax to file an appeal from the order dated 22nd February, 2017 of the Tribunal relating to Assessment Year 2010-11 to this Court. This to follow the rule of consistency as the issue involved in both the appeals are identical.

4. In the above view, we are satisfied that the reasons mentioned in the affidavit-in-support of the application. Thus, the Notice of Motion is allowed in terms of prayer clause (a). The appellant is directed to remove the office objections within four weeks from today. In case, the appellant fail to do so, then the appeal itself would stand dismissed without reference to the Court.

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