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

WRIT PETITION NO. 1864 OF 2017

Pr. Commissioner of Income Tax-1 .. Petitioner

v/s.

Jardine Lloyed Thompson India Pvt. Ltd. .. Respondent

Mr. Suresh Kumar for the petitioner
Mr. Hiten Chande i/b PDS Legal for the respondent

CORAM : M.S. SANKLECHA &
RIYAZ I. CHAGLA J.J.

DATED : 18th JANUARY, 2018.

P.C.

1. This petition challenges the order dated 28th October, 2016 of the Income Tax Appellate Tribunal (the Tribunal) passed under Section 254(2A) of the Income Tax Act, 1961 (the Act). The imugned order dated 28th October, 2016 extends the stay of demand, granted by the Tribunal by its earlier order dated 22nd April, 2016 for a further period of 6 months.

2. Mr. Suresh Kumar, learned Counsel appearing for the Revenue points out that the extension of stay for a period of 6 months granted by the impugned order dated 28th October, 2016 has already expired. It is also pointed out that further applications made by the respondent -

assessee for extension of stay have been allowed by the Tribunal, the last being order dated 11th August, 2017.

3. Mr. Suresh Kumar states that the Revenue has challenged the subsequent order dated 11th August, 2017 passed by the Tribunal, extending the stay by further period of 6 months by filing a separate petition. In the above view, it is submitted that this petition has become infructous.

4. We note that so far as the issue of jurisdiction to extend the stay of recovery of demand beyond the period of 365 days even in the context of the substituted third proviso to Section 254(2A) of the Act, this Court has held in ***Commissioner of Income Tax Vs. M/s. Tata Teleservices (Maharashtra) Ltd. (Writ Petition (L) Nos. 3437, 3438, 3439 and 3440 of 2015)*** that the Tribunal has jurisdiction.

5. In the light of the above, this petition is dismissed.

(RIYAZ I. CHAGLA, J.) **(M.S. SANKLECHA, J.)**