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

INCOME TAX APPEAL NO.355 OF 2016

M/s Rocket Engineering Corporation (P) Ltd. … Appellant

V/s.

The Commissioner of Income Tax-I, Kolhapur. … Respondent

Mr.Ashok Gade for the Appellant.
Mr.P.C.Chhotaray i/by Mr.N.N.Singh for the Respondent.

CORAM : AKIL KURESHI AND
M.S.SANKLECHA, JJ.
DATE : NOVEMBER 26, 2018.

P.C.:-

1. This appeal is filed by the assessee challenging the order dated 12th January, 2015 passed by the income Tax Appellate Tribunal rejecting its application under Section 254(2) of the Income Tax Act, 1961 seeking rectification of the main judgment of the Tribunal. Learned counsel for the Appellant was conscious of the fact that by virtue of the judgment of this court, the present tax appeal would not be maintainable. His option would be to file Writ Petition instead. The learned counsel however

submitted that, instead of pursuing the challenge to the rectification order of the Tribunal, the assessee would like to focus on challenge to the original order of the Tribunal itself. For such purpose, he proposes to file independent tax appeal. He would, therefore, not press the present tax appeal. His anxiety that the proposed tax appeal, may be considered delayed, can be addressed as and when such tax appeal is filed alongwith application for condonation of delay. We are conscious that the present tax appeal was filed on or around 15th June, 2015 and since then the assessee is bonafide pursuing this appeal. This would of-course be one of the considerations when we would examine the element of delay in challenging the judgment of the Tribunal.

2. With these observations, tax appeal is disposed of as not pressed.

(M.S.SANKLECHA,J.) **(AKIL KURESHI,J.)**

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