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

INCOME TAX APPEAL NO. 1763 OF 2017
WITH
NOTICE OF MOTION NO. 631 OF 2018

**Global Cricket Corporation } **
Pte LImited } Appellant
versus
The Income Tax Appellate }
Tribunal, Mumbai and Anr. } Respondents

Mr. J. P. Pardiwala-Senior Advocate i/b.Ms. Aarti Sathe for the appellant.

Mr. Tejveer Singh for the respondents.

CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.

DATE :- SEPTEMBER 5, 2018

P.C. :-

1. This appeal is brought by the assessee against an order on an application of the Revenue seeking to bring in additional evidence. The prayer for additional evidence was made invoking Rule 29 of the Income Tax (Appellate Tribunal) Rules, 1963. It is stated that this application was moved by the Revenue during the course of hearing of certain appeals and the Revenue insisted that an order be passed thereon so that if that application is accepted/allowed and the additional evidence is allowed to be tendered, the party aggrieved by such an order can go before the higher forum.

2. We are, at the threshold, entertaining serious doubt as to whether such orders of the tribunal, passed during the course of hearing of the appeals, by themselves enable the aggrieved parties to invoke this court's further appellate power under section 260A of the Income Tax Act, 1961. Presuming, but without expressing any final opinion on the maintainability of the present appeal, we are of the firm opinion that this appeal need not be entertained. All that has been done by the tribunal is to allow the application. The operative order itself says that the application of the Revenue is allowed and the additional evidence is admitted.

3. In the event the final orders in these appeals are adverse to the interest of the assessee, then, it is clarified that while impugning and challenging them, it would be open for the assessee to raise all grounds, including in relation to the admission of the additional evidence. Merely because we are not entertaining this appeal and at this stage would not preclude the assessee from raising the above ground. We also clarify that we have not expressed any opinion on the rival contentions in regard to this order. If we entertain such appeals, we would be further presuming that the additional evidences are necessarily being relied upon to make an order adverse to the interest of the

appellants before this court. That could never be the presumption on which we can proceed and in all cases. Therefore, in the event the final orders are adverse to the interest of the appellant before us, then, they can be challenged and in such challenge, the grounds in relation to the impugned order can also be raised.

4. With the above clarification, this appeal is disposed of.

5. In the light of the disposal of the appeal, the notice of motion does not survive and stands disposed of as such.

(B. P. COLABAWALLA, J.) **(S.C.DHARMADHIKARI, J.)**