

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 897 OF 2019

Pr. Commissioner of Income Tax, Cetral,
Pune

... Appellant

V/s.

The State of Maharashtra & Ors.

... Respondents

Mr. P.C. Das I/b P.C. Das and Associates for the Appellant.
Mrs. S.V. Sonawane, APP for the Respondent.

**CORAM : INDRAJIT MAHANTY &
A.M.BADAR, JJ.**

DATE : 08TH JULY, 2019

P.C.

1. Heard learned Counsel for respective parties. On perusal of the Appeal memo, we find that impugned order is an order dated 09.04.2019, by which order the Additional Sessions Judge, Thane directed as follows:

"Hence, issue letter to the Income Tax department for transferring said amount in treasury account of the Court as requested by the Competent authority."

2. Learned Counsel for the Appellant submits that Income Tax Department has never issued notice nor was the party to the said proceeding and such order could not have been passed without affording a notice to the Income Tax Authority and opportunity of hearing.

3. Learned Counsel for the State on the other hand submits that it as not necessary since it was merely a letter sent to a department with the aforesaid request.

4. We are afraid, whenever any court issues any direction, the communication thereof is that of the order of the Court. Consequently, it is required that the entity to whom a direction issued has to be granted an opportunity of hearing. We are surprised as to how the Additional Sessions Judge, Thane proceeded in the matter without any notice to the Income Tax Department. Consequently, without expressing any merits of the case, we set aside the impugned order dated 09.04.2019 passed below Exhibit No. 153 in MPID Case No. 5 of 2015 passed by the learned Additional Sessions Judge, Thane for the reasons noted hereinabove and in order to facilitate early disposal, we direct the appellant to ensure appearance through counsel on the next date. The Appellant shall appear before MPID Court with the copy of this order on 23.07.2019, on which date our directions shall be complied with and liberty to the appellant to file response on merits of the case.

5. Appeal stands disposed of in terms of the aforesaid direction.

(A.M.BADAR, J)

(INDRAJIT MAHANTY, J)