IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9133 OF 2018

Suresh Kishna Bhagat .. Petitioner

v/s.
Pr. Commissioner of Income Tax-2 .. Respondent
Thane

Mr. S.M. Oak a/w Mr. Manish Kale, Mr. Sagar Joshi for the petitioner
Mr. Sham Walve for the respondent

CORAM : AKIL KURESHI &
M.S. SANKLECHA, J.J.

DATED : 17th JANUARY, 2019

P.C.

1. The petitioner has prayed for a direction to the respondent no.1 to accept the payment of 3rd installment as per the Income Declaration Scheme, 2016. ("the Scheme" for short), which has been delayed.

2. Briefly stated the facts are that the petitioner is an individual. The legislature framed the said Scheme, 2016 in the Finance Act, 2016 giving opportunity to certain defaulters to make a declaration with respect to undisclosed income. Subject to fulfillment of the conditions contained in the scheme, the declarant would get immunity from further proceedings. The Scheme envisaged payments of tax on the

basis of the declaration as per the terms in the Scheme in three installments of 25%, 25% and 50% respectively. The petitioner made such a declaration under the Scheme on 09.09.2016 declaring undisclosed income of Rs.1.41 crores (rounded of). As per the computation of the respondent on such declaration, the petitioner was required to pay a total sum of Rs.63,68,232/- inclusive of tax, surcharge and penalty. It is undisputed position that the petitioner paid first two installments and the payments exceeded the requirement of 50% of the sum to be deposited. However, admittedly the petitioner could not pay the third installment. The petitioner has, therefore, prayed for extension of time citing acute financial difficulties.

3. Perusal of the Scheme would suggest that the same does not provide for any extension of time for payment of any of the installments of payment of tax. In fact, Section 187 which pertains to time for payment of tax, in sub-section (3) provides that if the declarant fails to pay the tax, surcharge and penalty in respect of the declaration made before the dates specified under sub-section (1), the declaration filed by him shall be deemed never to have made under the scheme. These are strong indications that the legislature does not envisage any extension of time for payment of tax under the Scheme. No directions contrary

to such legislation scheme can be granted. In this context, we may refer to the decision of the Supreme Court in the case of ***Hemalatha Gargya Vs. Commissioner of Income Tax (2003) 9 SCC 510***.

4. Counsel for the petitioner however submitted that the petitioner would like to make an application to the authorities to refund or adjustment of the amount already deposited. With respect to such a suggestion, we may offer no comment. It is always open for the petitioner to approach the authorities and the authorities would be expected to decide the same in accordance with law.

5. Petition is disposed of.

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