R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

NOTICE OF MOTION NO. 84 OF 2019
IN
INCOME TAX APPEAL NO. 738 OF 2016

M. Suresh Company Pvt Ltd .. Applicant

In the Matter Between:-

M. Suresh Company Pvt Ltd .. Appellant
Vs
Pr. Commissioner of Income Tax -5 .. Respondent

....

- Mr. V. Sridharan, Sr. Counsel a/w Mr. B.V. Jhaveri for the Applicant / Appellant
- Mr. N.C. Mohanty for the Respondent

....

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

DATE : JANUARY 25, 2019.

P.C.:

1. This Motion is taken by the appellant assessee in Income Tax Appeal No. 738 of 2016. The appeal arises out of a judgment of the Income Tax Appellate Tribunal confirming penalty against the assessee under Section 271(1)(c) of the Income Tax Act, 1961. The appeal is admitted. Substantial question of law is also framed. Pending such appeal, the Competent Authority has issued a show cause notice to the appellant why the prosecution should not be launched pursuant to such penalty order.

2. We are informed that the appellant has paid up the entire penalty in terms of the penalty order. Considering such fact and also considering the fact that the appeal against the penalty is admitted and the substantial question of law framed by the Court is pending for consideration, we stay the operation of the penalty order. We notice that similar modality was adopted by this Court in order dated 21.8.2017 passed in Income Tax Appeal No. 785 of 2017. Resultantly, at this stage, there would no question of launching prosecution. With these directions, Motion is disposed of.

[M.S. SANKLECHA, J.] **[AKIL KURESHI, J]**