R.M. AMBERKAR
(Private Secretary)

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

## INCOME TAX APPEAL NO. 928 OF 2016

The Commissioner of Income Tax (Exemptions) .. Appellant

Versus

Nashik Diocesan Council .. Respondent

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- Mr. Sham Walve for the Appellant

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

**DATE : JANUARY 21, 2019.**

**P.C.:**

**1.** Revenue is in the appeal against the judgment of the Income Tax Appellate Tribunal ("the Tribunal" for short).

**2.** In view of the undisputed position that Revenue's appeal i.e Income Tax Appeal No. 900 of 2016 ( The Pr. Commissioner of Income Tax -1 Vs. Avinash G. Balkundi) arising out of the same common judgment of the Tribunal and involving identical issues came to be dismissed by this Court by order dated 14.1.2019, it is not necessary to record in detail the controversy. We may only refer that in the said order dated 14.1.2019, the Court had made following observations:-

> "2. Issue relates to the block period from 1st April, 1996 to 25th March, 2003. The Revenue objects to the decision of the Tribunal, confirming a deletion of Rs.91 lakhs made by the Commissioner of Income Tax (Appeals) (in short [the CIT(A)]. The Assessing Officer had added such sum as undisclosed income for the block period. The Tribunal as well as the CIT(A) have concurrently held that there was no independent materials other than some statements. The Tribunal also noted that Shri Balasaheb Barku Kolhe had retracted his statement recorded during the search operation. It was also noted that the Assessing Officer had not gathered any independent evidence to prove the transaction in question or to establish that the seized documents represented true picture. The Tribunal also relied upon the decision in case of M/s. Thakkar Developers, in which, the same seized documents came up for consideration.
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> 3. It can thus be seen that, the entire issue is based on appreciation of material on record and is thus purely a factual issue. No question of law arises."

**3.** Under these circumstances, the Tax Appeal is dismissed.

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