R.M. AMBERKAR
(Private Secretary)

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

WRIT PETITION (L) NO. 467 OF 2019

Pervez K. Raisi .. Petitioner

Versus

Asst. Commissioner of Income Tax 19(2) & Ors. .. Respondents

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- Mr. Jitendra Jain i/by L.J. Law for the Petitioner
- Mr. Sham Walve for the Respondents

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

DATE : FEBRUARY 15, 2019.

P.C.:

1. Petitioner is facing recoveries arising out of the assessment orders. The petitioner had moved an application before the Assistant Commissioner seeking stay against such recoveries pending the appeal. On 6.2.2019, the Assistant Commissioner insisted that the petitioner must deposit 20% of the total outstanding demand latest by 11.2.2019 upon which the stay petition would be considered, failing which, coercive recoveries to continue.

2. Learned counsel for the petitioner may be correct in pointing out that depositing 20% before the stay petition can be considered on merits is not a per-condition. However, in the present facts of the case, we are prepared to understand the said order of the Assistant Commissioner as having rejected the petitioner's request for unconditional stay. On such basis, a stage for the petitioner to approach the Commissioner of Income Tax by further representation has ripen.

3. Learned counsel Mr. Walve states under instructions that if the petitioner files such a representation promptly and cooperates with the hearing thereafter by the Commissioner, no coercive recovery will be carried out for a period of one week after the communication of the order by the Commissioner. In view of this, if the petitioner files a further representation before the Commissioner within one week from today and subject to the petitioner cooperating the early disposal thereafter, the respondents, as stated by the learned counsel for the Revenue would not cause coercive recoveries for a period of one week after communication of the order which the Commissioner may take on such stay petition. Petition disposed of.

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