R.M. AMBERKAR
(Private Secretary)

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

WRIT PETITION NO. 536 OF 2019

Milind Harishchandra Rane .. Petitioner

Versus

Income Tax Officer, Ward-1(2) & Ors. .. Respondents

....

- Mr. Devendra H. Jain for the Petitioner
- Mr. Sham Walve for the Respondent

....

CORAM : AKIL KURESHI &
SARANG V. KOTWAL, JJ.

DATE : APRIL 12, 2019.

P.C.:

1. The petitioner has challenged an order dated 30.1.2019 passed by the Pr. Commissioner of Income Tax insisting that the petitioner must deposit 20% of the disputed tax demand pending hearing of the appeal before the Appellate Commissioner. It is undisputed that the petitioner has already deposited a part of 20% of Rs. 3.25 Crores of disputed tax and present, the shortfall which the Department is demanding is Rs. 27,09,900/-.

2. Learned counsel for the petitioner submitted that the appeal is pending before the Appellate Commissioner since long. Previously hearing had taken place, however, the appeal could not be disposed of finally. The petitioner has already offered the income arising out of development of housing project to tax in later years. If one considers the tax paid by the petitioner in such later assessment years, the requirement of depositing 20% of the disputed tax demand would be met with.

3. We have heard learned counsel for the parties and final documents on record. We do not find any error in the view of the Commissioner in insisting 20% of the disputed tax demand pending appeal. On what condition to grant stay pending further consideration of the appeal, is essentially discretionary powers of the quasi judicial authority. The CBDT has issued circulars from time to time laying down broad guidelines for exercise of such discretion. The Commissioner being applied its mind to the facts of the case and imposed the condition which even otherwise does not appear to be unreasonable, no interference is called for. Writ

Petition is dismissed.

[SARANG V. KOTWAL, J.] **[AKIL KURESHI, J]**