IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 1315 OF 2016

The Commissioner of Income Tax(Exemptions) .. Appellant

v/s.
Mumbai Metropolitan Region Development Authority (MMRDA) .. Respondent

Mr. Tejveer Singh for the appellant
Mr. Niraj Sheth I/b Mr. Atul Jasani for the respondent

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

DATED : 4th FEBRUARY, 2019

P.C.

1. The Revenue is in appeal against the judgment of the Income Tax Appellate Tribunal ("the Tribunal" for short). Following question is presented for our consideration :-

> *“(i) Whether on the facts and in the circumstances of the case and in law, the Tribunal is justified in holding that in view of proviso to Section 147 no action can be taken u/s 147 beyond the period of four years if the case does not fall within the exception of the proviso itself, namely, if there is no case of failure on the part of the assessee to disclose fully and truly all material facts, which are necessary for assessment for the year of assessment, even though assessee has not offered accrued income for taxation?”*

2. This question would suggest the issue pertains to validity of reopening of the assessment of the respondent assessee. The year

under consideration was Assessment Year 2003-04. The Assessing Officer issued notice under Section 148 of the Income Tax Act,1961 ("the Act" for short) beyond the period of 4 years from the end of the relevant assessment year. The Tribunal by detailed consideration, in the impugned judgment held that the Assessing Officer had no jurisdiction to issue such notice primarily on the ground that the assessee has not truly and fully disclosed all material facts necessary for assessment in its return. The Tribunal referred to various judgments of this Court as well as Supreme Court in this context, reference to which is not necessary. In view of undiputable fact that there was no failure on the part of the assessee to disclose truly and fully all material facts necessary for the assessment, the decision of the Tribunal to declare the notice of reopening of assessment issued beyond the period of 4 years from the end of the relevant assessment year as invalid, does not call for any interference. The question is therefore not entertained.

3. The tax appeal is therefore dismissed.

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