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

NOTICE OF MOTION NO. 789 OF 2018
IN
INCOME TAX APPEAL (L) NO.1123 OF 2015

Pr. Commissioner of Income Tax-3 ... Applicant/ Appellant

V/s.

New India Assurance Co. Ltd. … Respondent

Mr.Suresh Kumar for the Applicant/Appellant.
Mr.F.V.Irani with Mr.Atul Jasani for the Respondent.

CORAM : AKIL KURESHI AND
B.P.COLABAWALLA, JJ.
DATE : JANUARY 31, 2019.

P.C.:-

1. This notice of motion is taken out by the revenue seeking condonation of delay of 927 days in filing of the application for the restoration of the appeal and recalling an order dismissing such appeal for non-removal of office objections.

2. Delay being considerable, in addition to the affidavit in support of the notice of motion, we had also required the

counsel for the revenue to file an additional affidavit. Accordingly, he has tendered today an affidavit of 31st January, 2019 of the Chief Commissioner of Income Tax, Mumbai. In this additional affidavit, it is pointed out inter-alia that the office objections could not be removed since certain documents and paper-book were not readily available. The same were later on obtained. It is also stated that the deponent has instructed the staff to ensure that such errors do not occur in future and timely steps are taken for removal of objections.

3. In addition to the taking note of the averments in the two affidavits in support of the notice of motion, we also note that it is an admitted position, similar questions are already admitted in this Court raised in the appeal concerning the same assessee for the earlier assessment years. In such a situation, we may refer to an order dated 3rd December, 2018 passed by the Supreme Court condoning the delay which the High Court had refused to do mainly on the ground that similar questions concerning the same assessee were admitted and pending before the High Court .

4. Under the circumstances, delay is condoned. The order dated 7th January, 2016 in so far as it relates to the present appeal, dismissing the appeal for non-removal of office objections is recalled. All office objections be removed latest by two weeks from today, failing which the appeal shall stand dismissed.

5. Notice of motion is disposed of accordingly.

(B.P.COLABAWALLA,J.) **(AKIL KURESHI,J.)**

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