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

NOTICE OF MOTION NO.2025 OF 2017
IN
INCOME TAX APPEAL NO.10 OF 2016

Maharashtra Industrial
Development Corporation ... Applicant/appellant
V/s.
Dy. Director of Income Tax
(Exemptions)-I(1) and anr. ... Respondent

Mr.V.Sridharan, Senior counsel with Mr.Jas Sanghavi with Mr. Sanmati Roonka i/by M/s PDS Legal for the Applicant.
Mr.Nirmal Chandra Mohanty for the Respondent.

CORAM : AKIL KURESHI AND
M.S.SANKLECHA, JJ.
DATE : JANUARY 3, 2019.

P.C.:-

1. This notice of motion is taken out by the Appellant-Maharashtra Industrial Development Corporation. One of the prayers is for restraining the Respondent No.1 from recovering tax, interest or penalty from the assessee pending disposal of the present appeal.

2. Having heard learned counsel for the parties, we notice

that the Income Tax Appeal has already been admitted. A question of law has been framed. Subsequently, in the second round the Tribunal has also given substantial relief to the assessee on facts, however remanding a limited issue before the Assessing Officer for fresh consideration. At this stage therefore, till the Assessing Officer passes such fresh order pursuant to the Tribunal's subsequent order dated 7th September, 2018, question of enforcing any tax, interest or penalty against the assessee would not arise.

3. Under the circumstances, while disposing of this notice of motion, it is provided that till the Assessing Officer passes order consequent to the order of Income Tax Appellate Tribunal dated 7th September, 2018, there shall be no recovery of tax, interest or penalty against the assessee for the concerned assessment year 2011-2012. Notice of motion disposed of accordingly.

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

....