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

INCOME TAX APPEAL NO.128 OF 2017

M/s Devchhaya Industries, Pune. … Appellant

V/s.

Asst.Commissioner of Income Tax Circle-8, Pune.… Respondent

Ms.Alisha Pinto i/by Mr.Rohan Deshpande for the Appellant.
Mr.Sham Walve for the Respondent.

CORAM : AKIL KURESHI AND
SARANG V. KOTWAL, JJ.
DATE : MARCH 12, 2019.

P.C.:-

1. This appeal is filed by the assessee to challenge the judgment of the Income Tax Appellate Tribunal dated 25th May, 2016.

2. We note that after the said order was passed by the Tribunal the assessee had filed an application for rectification which came to be dismissed by an order dated 10th August, 2017. Against that order the assessee had filed Writ Petition No.57 of 2019. Such petition was disposed of by an order dated 14th February, 2019 in following terms:-

"4. In the above view, it is clear that the Tribunal

> ought to have dealt with the above issue (urged as ground No.5) in the Miscellaneous Application for rectification and taken a view on it. Therefore, we direct the Tribunal to decide above issue urged as ground No.5 by the petitioner in its rectification application dated 30th November, 2016 and pass an order on the same after following the principles of natural justice.
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> 5. Petition allowed in above terms. No order as to costs."

3. Now, that as per the said order of the High Court dated 14th February, 2019, the Tribunal would be examining the grievances of the appellant regarding production of additional evidence, at this stage it would not be necessary to entertain this appeal of the assessee which is directed against the original order of the Tribunal. The appeal is therefore disposed of, it is however clarified that if in future the need so arises for the assessee to challenge the order dated 25th May, 2016, it would be open for the assessee to revive the challenge by filing the appeal. Appeal disposed of accordingly.

(SARANG V.KOTWAL,J.) **(AKIL KURESHI,J.)**

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