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

INCOME TAX APPEAL NO.1164 OF 2016

Commissioner of Income-Tax-7 … Appellant

V/s.

M/s National Stock Exchange of India Ltd. … Respondent

Mr.Suresh Kumar for the Appellant.
Mr.Jehangir Mistri, Senior counsel with Mr.Atul Jasani for the Respondent.

CORAM : AKIL KURESHI AND
M.S.SANKLECHA, JJ.
DATE : FEBRUARY 18, 2019.

P.C.:-

1. Revenue has filed this appeal against the judgment of the Income Tax Appellate Tribunal ("the Tribunal" for short).

2. Following question is presented for our consideration:-

> “Whether on the facts and in the circumstances of the case and in law, the ITAT was right in holding that the reopening is invalid without appreciating the fact that 'failure' was attributable to the assessee since it claimed gross interest on tax free bonds as exempt without disclosing the expenditure incurred

thereon?

3. The assessment year under consideration is 1996-97. The Assessing Officer after initially framing scrutiny assessment under Section 143(3) of the Income Tax Act, 1961 ("the Act" for short) issued a notice of reopening of assessment beyond a period of four years from the end of relevant assessment year. The Tribunal by the impugned judgment held that the notice of reassessment was invalid primarily on the ground that there was no failure on the part of the assesseee to disclose truly and fully all necessary facts necessary for assessment. The reasons recorded by the Assessing Officer are as under.

4. The reasons would show that the assessee had earned gross interest on tax free bonds. The interest income was excluded from the taxable income on gross basis. However, according to the Assessing Officer, the exempt income had to be computed after allocating expenses incurred on earning exempt receipts which the assessee had not done in the present case. Whatever be the validity of the Assessing Officer's contention in

this respect, it cannot be stated, in fact not even so stated by the Assessing Officer, that there was failure on the part of the assessee, but disclose truly and fully all material facts necessary for assessment. In that view of the material, the Tribunal in our opinion committed no error.

5. Income Tax appeal is dismissed.

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

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