

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN INSOLVENCY**

**NOTICE OF MOTION NO.35 OF 2019
IN
INSOLVENCY PETITION NO.40 OF 1999**

Tax Recovery Officer-4 ... Applicant/Claimant

In the matter of :

Century Consultants Ltd. ... Petitioning Creditors

Anil Mithalal Shah ... Insolvent

The Official Assignee
High Court, Mumbai ... Respondent

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Mr. Dalshit Jain a/w Anjali Shah i/b DSK Legal for the Applicant-Prime Securities Limited.

Ms. Kavita Shah for the Respondent Official Assignee.

A.P. Bagwe for the Petitioning Creditor.

Swapna Gokhale for Income Tax Applicant in Notice of Motion No.35 of 2019

Mr.Suresh Kumar for the Applicant in Notice of Motion No.33 of 2018.

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CORAM : S.C. GUPTE, J.

DATE : 4 FEBRUARY 2020

P.C. :

. This Notice of Motion is taken out by Tax Recovery Officer of Income Tax Department for recovery of tax assessed on the Insolvent. It is submitted that when originally the proof of debt was filed by the Income Tax Department, the assessment orders pertaining to the

relevant yeas were not available and could not be produced before the Official Assignee. In the present notice, the department has contended that these papers have since become available and based on these papers, a fresh adjudication needs to be made in respect of the principal tax liability assessed of the Insolvent. The Notice of Motion is, accordingly, allowed by directing the Official Assignee to adjudicate the principal amount of tax liability of the Insolvent. It is made clear that re-adjudication order needs to be passed in respect of the principal amount of tax assessed for the relevant years together with admissible interest thereon. The claim of the department for interest over and above 6 per cent per annum is not to be re-agitated before the Official Assignee. The Notice of Motion is disposed of accordingly.

(S.C. GUPTE, J.)

Rajesh V.
Chittewan

Digitally signed
by Rajesh V.
Chittewan
Date: 2020.02.14
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