IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.874 OF 2019
IN
INCOME TAX APPEAL (L) NO.1810 OF 2019

Prashant Arun Sangai … Applicant

In the matter between:
Prashant Arun Sangai … Appellant
Vs.
Tax Recovery Officer (Central) Nashik and another … Respondents

Mr. Sameer Dalal for Applicant.
Mr. Sham Walve a/w. Mr. Pritesh Chatterjee for Respondents.

CORAM : UJJAL BHUYAN &
MILIND N. JADHAV, JJ.

DATE : JANUARY 28, 2020

P.C. :

Heard Mr. Dalal, learned counsel for the applicant and Mr. Walve, learned standing counsel Revenue for the respondents.

2. This notice of motion is sought for by the applicant for condoning the delay of 1800 days in preferring the related appeal before this Court.

3. The related appeal under Section 260-A of the Income Tax Act, 1961 has been preferred by the applicant against the order dated 30.04.2014 passed by the Income Tax Appellate Tribunal, Pune Bench “A”, Pune (briefly “the Tribunal” hereinafter) in ITA No.63/PN/2012 and CO No.66/PN/2013 for the assessment year 2007-08.

4. Mr. Dalal submits that the original order of the Tribunal dated 30.04.2014 was received by the applicant on 14.05.2014. Applicant thereafter filed a miscellaneous application before the Tribunal for rectification of the order dated 30.04.2014 on 17.11.2014 which was however rejected by the Tribunal on 25.02.2015. Against rejection of the

miscellaneous application, applicant preferred Income Tax Appeal No.1347 of 2016 before this Court. When the appeal was taken up for consideration, applicant sought leave to withdraw the said appeal and to file writ petition or an independent appeal against the original order of the Tribunal. By order dated 30.01.2019, this Court disposed of Income Tax Appeal No.1347 of 2016 as withdrawn with permission as prayed for. Thereafter, the related appeal has been filed on 16.08.2019.

5. On a query by the Court as to why about 7 months time was taken in filing the present appeal after permission was granted, learned counsel for the applicant submits that there was communication gap between the applicant and his counsel, applicant being a resident of Nashik.

6. Be that as it may, considering that permission was granted by this Court to the petitioner to file independent appeal against the original order of the Tribunal, we are of the view that the appeal may be heard and decided on its own merit. However, considering that there is considerable delay in filing the appeal, we are of the further view that some cost may be imposed on the applicant.

7. Accordingly, it is hereby directed that applicant shall pay cost of Rs.25,000.00 to the Maharashtra State Legal Services Authority, receipt of which shall be filed before the Registry of this Court.

8. Subject to such payment, delay in filing the related appeal is condoned.

9. Notice of motion is discharged.

(MILIND N. JADHAV, J.) **(UJJAL BHUYAN, J.)**