IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 1892 OF 2019
IN
REVIEW PETITION (L) NO. 24 OF 2019
IN
INCOME TAX APPEAL NO. 51 OF 2016

ALONGWITH
REVIEW PETITION (L) NO. 24 OF 2019
IN
INCOME TAX APPEAL NO. 51 OF 2016

Sushil Gupta,
Legal Representative of
Late Mahabir Prasad Gupta **….. Applicant/ Review Petitioner**

VERSUS

The Principal Commissioner of
Income Tax-17, Mumbai **….. Respondents**

Mr.Karl Tamboly, a/w. Mr.Nikhil Adkine, i/b. Mr.Chinmaya Acharya for the Applicant/Petitioner.

Mr.P.C.Chhotaray for the Respondents.

CORAM : A.S.CHANDURKAR &
B.P.COLABAWALLA , JJ.
DATE : 28TH APRIL, 2022
(IN CHAMBER AT 2.15 P.M.)

P.C:-

Delay in filing the review petition is condoned. At the request of the parties, the review petition is taken up forthwith for hearing.

2. When this review petition is called out and when we indicated that we are not inclined to entertain the review petition as we found no merit in the same, Mr.Tamboly, the learned counsel appearing on behalf of the review petitioner sought leave to unconditionally withdraw the above review petition.

2. In these circumstances, the review petition is dismissed as withdrawn. No order as to costs.

3. At this stage, a grievance is made by Mr.Chotaray, the learned advocate appearing for the Revenue, that in view of multiple review petitions filed by the assessee, the Revenue was not in a position to appropriate the sum of Rs.1,90,50,000/- lying with the Prothonotary and Senior Master towards the outstanding tax dues of the assessee. We do not see why the Income Tax Department has not made any application for withdrawal of the aforesaid amount till today, especially since there was no stay in favour of the assessee. Be that as it may, it is now clarified that the Revenue is allowed to withdraw amount of Rs.1,90,50,000/- along with accrued interest thereon, if any, lying with the Prothonotary and Senior Master of this Court and to appropriate the

same towards the tax liability of the assessee.

4. It is further clarified that the withdrawal of the review petition shall not preclude the assessee from challenging the orders passed by this Court on 22nd February, 2019 and 11th October, 2019 before the Hon’ble Supreme Court if it is otherwise entitled to challenge the same in law.

[B.P.COLABAWALLA, J.] **[A.S.CHANDURKAR, J.]**