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

MISCELLANEOUS APPLICATION NO. 46 OF 2024

Dy Commissioner Of Income Tax Cir 1 1 Pune ...Applicant
Versus
Bharat Forge Ltd ...Respondent

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Mr. Suresh Kumar for the Applicant.

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CORAM : G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

DATE : 19 NOVEMBER 2024

P.C.:

**1.** This is an application filed by the revenue under Section 158AB of the Income Tax Act, 1961 read with Rule 16 of the Income Tax Rules, 1962.

**2.** The respondent/assessee was served with the copy of this application. Affidavit of service is placed on record. However, considering the nature of the proceedings, it appears that the assessee is not interested to appear in the present proceedings and contest this application possibly for the reason that the assessee has already accorded its consent before the collegium in terms of Section 158AB.

**3.** Mr. Suresh Kumar, learned counsel for the applicant/revenue would draw our attention to an order dated 10th September 2024 passed on similar proceedings by this Court in the case of Assistant Commissioner of Income Tax CIR-2, Pune vs. Sandvik AB & Ors., in Miscellaneous Application No. 23 of 2024, wherein the Revenue had prayed for similar reliefs as in the present proceedings which pertains to the Assessment Year 2010-2011. The applicant/Revenue contends that insofar as the assessee is concerned, there are proceedings filed by the Revenue which are pending before this Court and subject matter of substantive Income Tax Appeal, the details of which are set out in the memo of the application. Such pending proceedings are relevant to the issue as would arise from the orders passed by the Tribunal in the respondent/ assessee's case, for which the Revenue would otherwise be required to approach this Court.

**4.** In this view of the matter, Mr. Suresh Kumar would submit that the collegium as relevant to the provisions of Section 158AB, was of the opinion that as a similar question of law for the previous assessment year is subject matter of proceedings pending before this Court, till such proceedings are decided, procedure be adopted as contemplated under Section 158AB so as to approach this Court by the present application, praying that the Court permits the applicant/revenue to file an appeal after the decision is passed in the pending appeal. It is stated that the respondent/assessee as per the said provisions had issued a letter of acceptance to the applicant/revenue as the question of law in the pending case is identical to that arising in the present case.

**5.** We have perused the provision of Section 158AB as also Rule 16 of Income Tax Rules, 1962 as also the record which annexes Form 8A setting out the necessary details, qua the proceedings as noted by us herein-above. In these circumstances, in our opinion, the application needs to be accepted as consented by the respondent/assessee.

**6.** The application accordingly allowed in terms of prayer clause (a) and (b), which reads thus:

> *"a) This Hon'ble High Court be pleased to take on record the form no. 8A being Exhibit-A.*
>
> *b) That this Hon'ble High Court be pleased to permit the applicant to file an appeal after the decision in appeal mentioned hereinabove as per Section 158AB of the Income Tax Act, 1961."*

**7.** Disposed of in the aforesaid terms. No costs.

**[ADVAIT M. SETHNA, J.]** **[G. S. KULKARNI, J.]**