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

INTERIM APPLICATION NO. 3195 OF 2024
IN
MISCELLANEOUS APPLICATION (L) NO. 19052 OF 2024

Deputy Commissioner Of Income
Tax Central Circle 8 3 ...Applicant
Versus
Jsw Steel Ltd ...Respondent

Mr. Suresh Kumar for the Applicant.

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

DATE : 19 NOVEMBER 2024

P.C.:

1. This Interim Application is filed by the applicant/Revenue praying for condonation of delay in filing the Miscellaneous Application. However, on perusal of the provision of Section 158AB of Income Tax Act, 1961 and more particularly considering the fact that the present application is filed on an assumption that sub-section (2) of Section 158AB prescribes a limitation of 120 days to approach this Court in filing the Miscellaneous Application. In our opinion, such assumption may not be correct. Sub-section (2) of Section 158AB certainly does not speak of any limitation for the Revenue to approach this Court in filing such Miscellaneous Application with prayers being made in terms of Section 158AB, which is in the nature of deferment of the Revenue's decision to file an appeal against the decision of the Tribunal in view of the pendency of earlier proceedings against the assessee and that too being consented by the assessee. Under Section 158AB, a cause of action to the Revenue to file an appeal would arise only after the pending appeal, which is on similar issues, is decided. This appears to be the legislative scheme and object of the Section 158AB so as to avoid unwarranted litigation, which is mutually beneficial.

2. Thus, in our opinion, sub-section (2) of Section 158AB could not have been resorted to be read that it prescribes limitation for filing of the present application. If at all, if the limitation is to be gathered to file such application in our opinion it would be in terms of Article 137 of the Schedule of Limitation Act, which would be the limitation of 3 years from the date of right to apply accrues to the Revenue.

3. However, in any event this is not a case where the delay is beyond the prescribed period of limitation of 3 years as provided under Article 137 of the Limitation Act as Mr. Suresh Kumar informs that even applying the limitation of 120 days, condonation of delay as prayed for is only of 139 days.

4. The Application therefore would not warrant any adjudication, it is disposed of. No costs.

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