IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/TAX APPEAL NO. 627 of 2007

With
MISC. CIVIL APPLICATION (OJ) NO. 1 of 2017
In R/TAX APPEAL NO. 627 of 2007

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THE COMMISSIONER OF INCOME TAX
Versus
KAMLESH DAMJIBHAI YADAV

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Appearance:
MR. RUTVIJ PATEL, SENIOR STANDING COUNSEL for the Appellant(s) No. 1
MR TUSHAR P HEMANI(2790) for the Opponent(s) No. 1
MS VAIBHAVI K PARIKH(3238) for the Opponent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE BHARGAV D. KARIA**
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 12/06/2026

ORAL ORDER
(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)

Heard learned Senior Standing Counsel Mr.Rutvij Patel for the appellant – applicant and learned advocate Ms.Vaibhavi Parikh for the respondent. Learned Senior Standing Counsel Mr.Rutvij Patel has submitted that he has instructions to appear for the applicant and seeks permission to file his appearance. Permission is granted.

ORDER IN MCA (OJ) No. 1 of 2017.

1 This application is filed with the following prayers:

> *"B. That this Hon'ble Court be pleased to review/recall the order dated 19.08.2016 passed in Tax Appeal No. 627 of 2007 and be restored / recall Tax Appeal No. 627 of 2007 for further hearing."*

2 Learned Senior Standing Counsel Mr.Rutvij Patel submitted that the Tax Appeal No.627 of 2007 was admitted raising seven questions, however, the tax appeal was disposed of by this Court vide order dated 19.08.2016 deciding only two questions and other questions were not decided on merits. The issue raised in question No.A was decided in favour of the revenue and the issue raised in the form of question No.B which was regarding the date of limitation for completion of the block assessment was decided against the revenue. The other questions were not decided.

3 It was pointed out that upon receipt of the certified copy by the applicant and upon verification of the record, it transpired that the restraint order dated 17.07.2002 passed under Section 132(3) of the Income Tax Act, 1961, was issued in name of all four persons, including the assessee and all four assessee had been ordered not to remove or part with or otherwise deal with the articles or things mentioned therein without previous permission of the authorized officer. It was pointed out that this Court held that since the restraint order was in the name of only one assessee, the search got concluded on 17.07.2002 for other assessee’s. It was

therefore submitted that in view of the fact that the restraint order was issued in the name of all assessee's, the limitation for passing the assessment order would get extended.

4 In view of the above facts, it was prayed that the impugned order dated 19.08.2016 so far as the Tax Appeal No.627 of 2007 is concerned, may be recalled.

5 Considering the above facts, it appears that the fact that the restraint order was passed in name of all the four assessee was not considered by this Court and therefore, by passing the common order dated 19.08.2016, only two grounds of appeals were decided, one of them being limitation and as the same was decided in favour of the assessee, the other grounds were not considered on merits.

6 In view of the above facts, we recall the order dated 19.08.2016 passed in Tax Appeal No. 627 of 2007 and restore the Tax Appeal No.627 of 2007 to file. The application is accordingly allowed and stands disposed of.

ORDER IN TAX APPEAL NO. 627 of 2007.

1 In view of the order of even date passed in MCA (OJ) No. 1 of 2017, this Tax Appeal is ordered to be restored to file.

2 Learned Senior Standing Counsel Mr.Rutvij Patel for the appellant submitted that the tax effect in this appeal is less than Rs.2 crores and as per the Circular No.9 of 2024 dated 17.09.2024, this Tax Appeal would not be maintainable.

3 In view of the above statement, the Tax Appeal is disposed of on the ground of low tax effect with a liberty to revive in case of difficulty.

(BHARGAV D. KARIA, J)

(PRANAV TRIVEDI,J)

BIMAL

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: BIMAL B CHAKRAVARTY(HC01089), PRIVATE SECRETARY, at High Court of Gujarat on 17/06/2026 17:58:30