



IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER

ITA no.3753/Mum./2018
(Assessment Year : 2010-11)

Shri Romen Mohanlal Patel
40, Bhansali Building
Banganga Road
Walkeshwar, Mumbai 400 006
PAN – AABPP3811D

..... Appellant

v/s

Income Tax Officer
Ward-17(3)(2), Mumbai

..... Respondent

Revenue by : Shri Chaitanya Anjaria
Assessee by : Shri Vimal Punmiya

Date of Hearing – 18.04.2019

Date of Order – 26.04.2019

ORDER

The aforesaid appeal has been filed by the assessee challenging the order dated 27th March 2018, passed by the learned Commissioner (Appeals)-28, Mumbai, rejecting assessee's application seeking stay recovery of demand raised for the assessment year 2010-11.

2. I have considered rival submissions and perused material on record. As could be seen, the Assessing Officer completed assessment under section 143(3) r/w section 147 of the Income-tax Act, 1961 (for

short "*the Act*") in respect of the present assessee for the assessment year 2010–11. Further, the Assessing Officer also passed an assessment order under section 158BC r/w section 254 of the Act against the assessee for the block period from 1st April 1996 to 11th April 2002. The assessee filed appeals against the aforesaid assessment orders passed by the Assessing Officer before learned Commissioner (Appeals). On filing the aforesaid appeals, the assessee also filed applications seeking stay recovery of outstanding demand raised in the aforesaid assessment orders. As it appears, the stay applications were fixed for hearing by learned Commissioner (Appeals) on 23rd March 2018. As stated by learned Commissioner (Appeals), on the said date an application was received from the assessee seeking adjournment citing recent tragedy in family. However, learned Commissioner (Appeals) without granting any further adjournment dismissed both the stay applications filed by the assessee in a consolidated order impugned in the present appeal. Notably, against the rejection of stay application for the block period from 1st April 1996 to 11th April 2002, the assessee had preferred a separate appeal before the Tribunal arising out of the impugned order of the learned Commissioner (Appeals). While disposing of the said appeal, the Tribunal, in IT(SS)A no.3/Mum./2018, dated 16th November 2018, has restored the stay application to the learned Commissioner (Appeals) for fresh adjudication after affording reasonable opportunity of being

heard to the assessee. The learned Representatives appearing for the parties have submitted before me that similar direction can be issued in the present appeal also. Considering the above, I set aside the impugned order of learned Commissioner (Appeals) and restore the stay application to him for fresh adjudication after affording reasonable opportunity of being heard to the assessee. Ground raised is allowed for statistical purposes.

3. In the result, appeal is allowed for statistical purposes.

Order pronounced in the open Court on 26.04.2019

**Sd/-
SAKTIJIT DEY
JUDICIAL MEMBER**

MUMBAI, DATED: 26.04.2019

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The CIT(A);
- (4) The CIT, Mumbai City concerned;
- (5) The DR, ITAT, Mumbai;
- (6) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

(Sr. Private Secretary)
ITAT, Mumbai