

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

WRIT PETITION (LODGING) NO.3104 OF 2018

Lupin Investments Pvt. Ltd.

... Petitioner

Vs

Income Tax Appellate Tribunal, Mumbai
and Ors.

... Respondents

Mr.J.D. Mistri, Senior Advocate a/w Mr.Nishant Thakkar, Mr.Hiten
Chande i/b PDS Legal for the Petitioner.

Mr.Suresh Kumar for Respondent No.2.

**CORAM : S.C. DHARMADHIKARI &
B.P. COLABAWALLA, JJ.**

MONDAY, 15TH OCTOBER, 2018

P.C. :

1 Having heard Mr.Mistri, senior counsel appearing on behalf of the petitioner and Mr.Suresh Kumar appearing on behalf of respondent No.2, we are at a loss to understand as to why the Income Tax Appellate Tribunal has not communicated to the petitioner regarding fixing a specific date of hearing of a Miscellaneous Application invoking Section 254(2) of the Income Tax Act, 1961.

2 All that the petitioner desires is that the Income Tax Appellate

Tribunal should expeditiously hear this application.

3 Mr.Mistri says that this application is pending and a copy thereof is annexed to this Petition. Further, after filing this application, the petitioner has requested by a letter dated 26th July 2018 (Exhibit 'O' page 188) to give an expeditious hearing on this application.

4 The Tribunal has already been made aware by us of the importance in giving priority to such applications. In the instant case, the Miscellaneous Application arises out of the order passed on 1st June, 2018 by the Tribunal. The Miscellaneous Application is pending from 26th July, 2018. We are in the month of October, 2018 and the petitioner has no information as to when this application will be heard.

5 In such state of affairs, we direct the Tribunal to give priority to this application and dispose it of as expeditiously as possible and, in any event, by 31st December, 2018.

6 We have already indicated in our earlier orders and directions that the Tribunal should inform parties well in advance by assigning

specific dates of hearing on these Miscellaneous Applications. They should be taken in the order in which they have been instituted/filed. None should be compelled to move this Court and seek an out of turn hearing. That would mean if somebody approaches this Court, gets a priority and expeditious hearing, others will have to wait for outcome of their Miscellaneous Applications for years together. This is not a happy scenario and it is for the Tribunal to set right the lapses and put its house in order.

7 We dispose of this Petition by clarifying that we have not expressed any opinion on the rival contentions or on the merits of the application. Let respondent No.2 not initiate any coercive measures to recover the amount of taxes and penalty, if any, in terms of the Tribunal's initial order dated 1st June, 2018 simply because the petitioner's Miscellaneous Application is pending.

8 Let a copy of this order be provided to Mr.Suresh Kumar so that he can inform the office of the Tribunal accordingly.

[B.P. COLABAWALLA, J.]

[S.C. DHARMADHIKARI, J.]