



(905) itxa-1320-18 @ 1936-18.doc

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

**INCOME TAX APPEAL NO.1320 OF 2018**

Pr. Commissioner of Income Tax-2 ... Appellant

Vs

Radan Multimedia Ltd. .. Respondent

**WITH  
WRIT PETITION NO.1936 OF 2018**

Radan Multimedia Ltd. ... Petitioner

Vs

Principal Commissioner of Income Tax-2  
and Ors. ... Respondents

Mr.Suresh Kumar for the Appellant in Income Tax Appeal No.1320 of 2018.

Mr.Salil Kapoor i/b Mehul A. Rathod for the Petitioner in Writ Petition No.1936 of 2018 and for the Respondent in Income Tax Appeal No.1320 of 2018.

Mr.P.C. Chhotaray for the Respondent Nos.1 and 2 in Writ Petition No.1936 of 2018.

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

**WEDNESDAY, 26<sup>TH</sup> SEPTEMBER, 2018**

**P.C. :**

1           When these matters were placed before us for 'admission' and argued for some time, learned counsel appearing on behalf of the respondent/assessee in Appeal and the petitioner in Writ Petition would submit that there is a subsequent development.

2           As far as the Revenue's Appeal which challenges the order passed by the Income Tax Appellate Tribunal in Income Tax Appeal No.500/Mum/2005 dated 6<sup>th</sup> January, 2016 for the Assessment Year 1996-1997, the assessee moved an Miscellaneous Application seeking rectification of mistakes apparent from the order. That Miscellaneous Application No.240/Mum/2016 in Income Tax Appeal No.500/Mum/2005 is decided by the Bench of the Tribunal at Mumbai and now the further order corrects what is styled as mistakes apparent from the record.

3           A copy of this order is handed over to us today. We take it on record and mark as 'X' for identification.

4 We would highly appreciate if, Mr.Suresh Kumar appearing for the Revenue in support of this Appeal takes instructions and reverts back on the next date, particularly, on the issue as to whether the Revenue desires to press this Appeal. We found that the initial order was passed by the Tribunal on 6<sup>th</sup> January 2016. The Miscellaneous Application is decided on 13<sup>th</sup> January 2017. We have no information as to whether prior to the decision of the Tribunal on this Miscellaneous Application, the Assessing Officer has already given effect to Tribunal's initial or earlier order or otherwise. If the mistakes are corrected in the later order dated 13<sup>th</sup> January 2017, then, whether the Assessing Officer has given effect to that order also will be crucial and relevant for us.

5 We have found that the discipline and order, which was inculcated in the proceedings before this Court earlier is missing. There should be a dedicated legal team in the department so that this Court is assisted properly and fully. We have found that the Revenue's advocates are often handicapped for neither the records are produced nor are officers competent to give instructions to these advocates for the Revenue present in the Court. It is time to remind the Revenue that arguing legal matters or proceedings before the highest court in the

State should not be taken casually and lightly. If Appeals are filed routinely merely because the Revenue thinks that there are huge stakes involved, then, it is expected that the Revenue officials come fully prepared to Court, give instructions and before the matters are actually argued before us, they hold meeting and conference with the Revenue advocates. Very often, lack of preparation is affecting the performance of the advocates. One of the reasons why the advocates are not in a position to render complete assistance to the Court is because they themselves do not have full records. They do not have the assistance of the official, who can give them instructions. Arguing matter before a Court requires presence of mind. At times, one has to think on toes. More so, when the scales are not evenly balanced. The assessee and their counsel are fully equipped, but the Revenue does not have such degree of competence nor are they efficient enough. If court cases and legal proceedings are heavily contested, then, it is time, the Revenue officers inculcate a discipline and set their house in order. It is not sufficient that administrative in-charge takes the matter in his hands. If such administrative in-charge or head of the department is not legally trained and experienced, then, he will never be able to guide those part and parcel of legal team and an inspector level or junior officer cannot

be expected to think on his toes and give immediate answers to the queries of the Court. That is how we find that the Revenue counsel are cornered. Unless and until we pass specific orders and issue directions, the Revenue officials do not remain present in Court and with records.

6 This case is a glaring example of the unpleasant state of affairs prevailing in the department. The Income Tax Commissioners at Mumbai should devote more time to their work rather than attending some administrative meetings and thereafter boasting about revenue collection in Mumbai. We are informed that 30% of the total revenue collected and generated in this Country is from Mumbai. The figure can be much more if strenuous efforts and hard work is put in. We do not see any evidence of that, atleast in the proceedings before us.

7 We place these matters on 24<sup>th</sup> October 2018 so as to accommodate the respondent's/assessee's counsel, who is not based in Mumbai. We expect that before that date, the requisite and necessary steps will be taken not only in this case, but in every case that is to follow and appear on our Board from Monday to Wednesday.

8 We pass this order also to enable Mr.Chhotaray to file an affidavit, if so advised, for the respondents in the Writ Petition No.1936 of 2018.

9 Hence, the matters be listed on the 'Supplementary Board' on 24<sup>th</sup> October 2018.

(B.P. COLABAWALLA, J.)

(S.C. DHARMADHIKARI, J.)