

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 1887 OF 2019**

Smt. Kalpana Ashwin Shah

... Petitioner

Versus

Assistant Commissioner of

Income Tax 21(2) and Ors.

... Respondents

Mr.Madhur Agarwal a/w. Mr. Umesh, Mr.Hetal, Mr.Kunal Kamath, Mr.Hrishikesh
i/b. M/s. S.Ashwinkumar and Company for the Petitioner.

None for the Respondents.

CORAM : AKIL KURESHI &

S.J. KATHAWALLA, JJ.

DATE : 15TH JULY, 2019

P.C.:

1. The Petitioner has challenged the orders passed by the Assessing Officer as well as the Commissioner of Income Tax, requiring the Petitioner to deposit 20% of the disputed tax pending Appeal against the order of the assessment subject to which the remaining recovery would stand stayed.

2. Having heard the learned Counsel for the Petitioner and having perused the documents on record, it appears from the record that in response to the notice of reassessment, the Petitioner had not produced the documents or reply during pendency of such proceedings. The Assessing Officer therefore passed the ex-parte assessment order. He has imposed the tax of Rs.42 Lacs (round off), 20% of which, would come to close to Rs.8 Lacs. Thus the Petitioner is required to deposit the sum

of Rs.8 Lacs subject to which the remaining tax recovery would stand stayed.

3. The decision of the authorities is in consonance with the department's circulars. We do not find any extra ordinary reasons for imposing condition lighter than one which has been imposed by the said authorities. The contention of the Petitioner that he had received no consideration at the time of transfer of the tenancy of immovable commercial property of which he is the owner and that therefore no tax could have been demanded from him, would be subject matter of the Appeal proceedings. This is not a ground for lifting the rigor of the requirement of deposit of 20% of the disputed tax pending appeal.

4. The Petition is therefore dismissed.

5. It would be open for the Petitioners to request the Commissioner for early disposal of the Appeal.

(S.J.KATHAWALLA, J.)

(AKIL KURESHI, J.)