

ITEM NO.43

COURT NO.7

SECTION III

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 5191/2019

(Arising out of impugned final judgment and order dated 02-07-2018 in SCA No. 1492/2018 passed by the High Court Of Gujarat At Ahmedabad)

TAX RECOVERY OFFICER 1

Petitioner(s)

VERSUS

REKHADEVI OMPRAKASH DHARIWAL & ANR.

Respondent(s)

(IA No.24771/2019-CONDONATION OF DELAY IN FILING)

WITH

Diary No(s). 5687/2019 (III)

(IA No.34358/2019-CONDONATION OF DELAY IN FILING)

Date : 16-09-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT

HON'BLE MR. JUSTICE VINEET SARAN

For Petitioner(s) Mr. K.M. Nataraj, ASG
Mr. Atul Jha, Adv.
Mr. Shailesh Madiya, Adv.
Mr. Nalick Kohli, Adv.
Ms. Nimisha Menon, Adv
Mrs. Anil Katiyar, AOR

For Respondent(s) Mr. S.K. Bagaria, Sr. Adv.
Mr. Shamik Shirishbhai Sanjanwala, AOR
Mr. Sunil Kr. Kaundal, Adv.

Mr. Purvish Jitendra Malkan, AOR
Mr. Sudhir Mehta, Adv.
Mr. Dharita Purvish Malkan, Adv.
Mr. Jitendra Malkan, Adv.
Mr. Alok Kr, Adv.
Ms. Bhavna Sarkar, Adv.

Mr. Aniruddha P. Mayee, AOR
Mr. Deepawita Priyanka, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Diary No(s). 5687/2019

Delay condoned.

Order dated 23.05.2017 issued by the Tax Recovery Officer, Ahmedabad (Annexure P-3) shows that a sum of Rs.1,74,05,860/- (Penalty of Rs.74,70,326/- plus interest u/s 220(2) of Rs.99,35,534/- upto 23.5.2017) was due from Harish F. Shah.

In pursuance of the aforesaid notice, the property of said Harish F. Shah was put under attachment.

According to the record, while the property was still under attachment, it was sold in favour of Smt. Nitaben Harish Shah. According to the revenue, such sale could not have been effected, while the attachment was in operation, and as such the revenue would be entitled to proceed against the property.

The contentions of the revenue having been rejected, the revenue is in appeal before this Court.

However, the fact remains that the original tax effect was less than 2 crores as is stipulated in the CBDT Circular dated 8.8.2019. In the circumstances, we do not deem it appropriate to interfere in the matter. We however, leave all the questions of law open.

The special leave petition is dismissed.

Pending applications, if any, shall also stand disposed of.

SLP (C) No. 5191/2019

Delay condoned.

Though the facts of this case are slightly different, the tax

effect in the matter is less than two crores.

In the circumstances, we do not deem it appropriate to interfere in the matter. We however, leave all the question of law open.

The special leave petition is dismissed.

Pending applications, if any, shall also stand disposed of.

(INDU MARWAH)
COURT MASTER

(SUMAN JAIN)
BRANCH OFFICER