

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.6671-6676 OF 2010

SENIOR BHOSALE ESTATE (HUF)

Appellant(s)

VERSUS

THE ASSISTANT COMMISSIONER
OF INCOME TAX

Respondent(s)

WITH

CIVIL APPEAL NOS.6677-6690 OF 2010

O R D E R

Heard learned counsel for the parties.

These appeals take exception to the common order dated 13.02.2009 passed by the High Court of Judicature at Bombay, Nagpur Bench in Civil Application No.7637 of 2008 in Income Tax Appeal St. No.16191 of 2008, Civil Application No.7638 of 2008 in Income Tax Appeal St. No.16193 of 2008, Civil Application No.7639 of 2008 in Income Tax Appeal St. No.16195 of 2008, Civil Application No.7640 of 2008 in Income Tax Appeal St.

No.16197 of 2008, Civil Application No.7641 of 2008 in Income Tax Appeal St. No.16199 of 2008, Civil Application No.7642 of 2008 in Income Tax Appeal St. No.16201 of 2008; Civil Application No.CAT 1 of 2009 in Wealth Tax Appeal St. No.19939 of 2008, Civil Application No.CAT 2 of 2009 in Wealth Tax Appeal St. No.19967 of 2008, Civil Application No.CAT 3 of 2009 in Wealth Tax Appeal St. No.19962 of 2008, Civil Application No.CAT 4 of 2009 in Wealth Tax Appeal St. No.19970 of 2008, Civil Application No.CAT 5 of 2009 in Wealth Tax Appeal St. No.19964 of 2008, Civil Application No.CAT 6 of 2009 in Wealth Tax Appeal St. No.19926 of 2008, Civil Application No.CAT 7 of 2009 in Wealth Tax Appeal St. No.19935 of 2008, Civil Application No.CAT 8 of 2009 in Wealth Tax Appeal St. No.19918 of 2008, Civil Application No.CAT 9 of 2009 in Wealth Tax Appeal St. No.19921 of 2008, Civil Application No.CAT 10 of 2009 in Wealth Tax Appeal St. No.19975 of 2008, Civil Application No.CAT 11 of 2009 in Wealth Tax Appeal St. No.19931 of 2008, Civil Application No.CAT 12 of 2009 in Wealth Tax Appeal St. No.19956 of 2008, Civil Application No.CAT 13 of 2009 in Wealth Tax Appeal St. No. 19959 of 2008 and Civil

Application No.CAT 14 of 2009 in Wealth Tax Appeal St. No.19944 of 2008, whereby it had dismissed the said civil application(s) praying for condonation of delay in filing the concerned appeal(s) against the common order dated 29.12.2003 passed by the Income Tax Appellate Authority being barred by 1754 days.

The appellant(s) had asserted that they had no knowledge about passing of order dated 29.12.2003, until they were confronted with the auction notices in June 2008 issued by the competent authority.

Soon thereafter, the appellant(s) filed appeal(s) accompanied by the subject application(s) on 19.07.2008. Notably, the respondent(s) did not expressly refute the stand taken by the appellant(s) - that they had no knowledge about passing of order dated 29.12.2003 until June, 2008. Unless that fact was to be refuted, the question of disbelieving the stand taken by the appellant(s) on affidavit, cannot arise and for which reason, the High Court should have shown indulgence to the appellant(s) by condoning the delay in filing the concerned appeal(s). This aspect has been glossed over by the High Court.

Accordingly, these appeals are allowed. We set aside the impugned order of the High Court and relegate the parties before the High Court, by allowing the civil application(s) filed by the appellant(s) for condonation of delay in filing the concerned appeal.

As a result, the concerned appeal(s) shall stand restored to the file of the High Court and be proceeded in accordance with law.

Pending applications, if any, stand disposed of.

.....J
(A.M. KHANWILKAR)

.....J
(DINESH MAHESHWARI)

New Delhi
November 07, 2019

ITEM NO.106

COURT NO.8

SECTION IX

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

Civil Appeal No(s). 6671-6676/2010

SENIOR BHOSALE ESTATE (HUF)

Appellant(s)

VERSUS

THE ASSISTANT COMMISSIONER OF INCOME TAX

Respondent(s)

([AT TOP])

WITH

C.A. No. 6677-6690/2010 (IX)

Date : 07-11-2019 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE DINESH MAHESHWARI

For Appellant(s)

Ms. Bansuri Swaraj, Adv.
Mr. Siddhesh Kotwal, Adv.
Ms. Arshiya Ghose, Adv.
Ms. Astma Sharma, Adv.
Mr. Divyansh Tiwari, Adv.
Ms. Ana Upadhyay, Adv.
Mr. Nirnimesh Dube, AOR

For Respondent(s)

Mr. Arijit Prasad, Sr. Adv.
Mr. Manish Pushkarna, Adv.
Mrs. Anil Katiyar, AOR

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

The appeals are allowed in terms of the signed order.

Pending applications, if any, stand disposed of.

(DEEPAK SINGH)
COURT MASTER (SH)

(VIDYA NEGI)
COURT MASTER (NSH)

[Signed order is placed on the file]