



Rekha Patil

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**ORDINARY ORIGINAL CIVIL JURISDICTION**  
**INCOME TAX APPEAL NO. 2686 OF 2018**

Pr. Commissioner Of Income Tax-2, Thane ...Appellant  
*Versus*  
The Thane District Central Co-Operative Bank ...Respondent  
Limited

**Mr. Akhileshwar Sharma**, for the Appellant.  
**Mr. Ashok J. Patil**, for the Respondent.

CORAM: SUMAN SHYAM &  
ADVAIT M. SETHNA, JJ.

DATED: 11<sup>th</sup> JUNE, 2026.

**PC:-**

1. This Appeal, preferred under Section 260A of the Income Tax Act, 1961, is directed against the Judgment and Order dated 15<sup>th</sup> November, 2017, passed by the learned Income Tax Appellate Tribunal, 'D' Bench Mumbai, in Income Tax Appeal No.5038/Mum/2015 (A.Y.2009-10), setting aside the order of penalty by holding that the show cause notice was defective.

2. Mr. Akhileshwar Sharma, learned Counsel appearing for the Appellant-Revenue, in his usual fairness, has submitted that the core issues arising in this Appeal is covered by the Full Bench decision of this Court rendered in the case of **Mohd. Farhan A. Shaikh Vs. Deputy Commissioner of Income Tax & Anr.**<sup>1</sup> As such, the Appeal can be be disposed of in the above terms.

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**1** (2021) 125 taxmann.com 253



3. Mr. Ashok Patil, learned Counsel for the Respondent-Assessee is present and has confirmed the said position.

4. In the case of **Mohd. Farhan A. Shaikh (supra)**, the Full Bench has held, in identical situation, that no penalty could have been imposed upon the assessee based on defective show cause notice. If that be so, there can be no manner of doubt about the fact that the substantial questions of law sought to be urged by the Appellant is no longer open for consideration in the present appeal.

5. The Appeal is, therefore, disposed of in the light of the decision in the case of **Mohd. Farhan A. Shaikh (supra)**.

(ADVAIT M. SETHNA, J.)

(SUMAN SHYAM, J.)