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

INCOME TAX APPEAL NO.17 OF 2002

M/s Thermax Babcock & Wilcox Ltd.. ..Appellant
-Versus-
The Commissioner of Income Tax. ..Respondent

.....
Mr.B.V.Jhaveri, for the Appellant.
Mr.Suresh Kumar, for the Respondent.

.....
**CORAM: S.C. DHARMADHIKARI
AND
GIRISH S. KULKARNI, JJ.**

DATE :- 04th March, 2014

PC:

1 At the request of Mr.Jhaveri, learned counsel appearing for the Appellant, and in order to enable him to get ready and argue this Appeal, stand over to 24th March, 2014.

2 We have noted that the Final Hearing Board consists of all Appeals of 2002. First two matters have been adjourned by us only because the Department or the Advocate for Appellant sought accommodation. They did not have either papers or were not ready with the case. Such state of affairs will not be tolerated hereafter. In the event, the Counsel engaged by the Department is absent without a justifiable or reasonable cause, we will invariably impose costs and to be paid by the Counsel personally. Equally, we would proceed in his absence. In the event, the Appellant or his Advocate is absent, we will proceed to dismiss the Appeal for non prosecution. Thereafter, no application for restoration

of the Appeal will be considered unless the Appellant makes out a sufficient cause for absence.

3 We would also expect the Department and equally the Excise, Customs, Income Tax, all of which are stated to have engaged separate Advocates, to inform and caution their Advocates that their absence would result in either this Court proceeding ex-parte or the Appeals of the Department being dismissed for non prosecution. This Court will not hereafter countenance that the matters are adjourned and not heard due to absence of the Advocates. The Department is equally responsible to the Court and must ensure the presence of their Advocates. In the event only one Advocate is being briefed, the Department may consider handing over and entrusting the papers to an additional Advocate so as not to cause inconvenience to this Court. The disobedience of this order or inconvenience to this Court, would result in the Joint Secretary, Department of Law & Judiciary, Government of India, so also, the Secretary, Department of Law & Judiciary, Government of India, remaining present in the Court.

4 A copy of this order be forwarded to all concerned Authorities.

(GIRISH S. KULKARNI, J.)

(S.C. DHARMADHIKARI, J.)