IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

INCOME TAX APPEAL NO. 41 OF 2014

The Commissioner of Income Tax,
Aurangabad. .. **Appellant**

Versus

Shri Popatlal M. Chordia, Aurangabad. .. **Respondent**

Mr Alok Sharma, Advocate for the appellant
Mr Vakil, Advocate for the respondent

ALONG WITH

INCOME TAX APPEAL NO. 42 OF 2014

The Commissioner of Income Tax,
Aurangabad. .. **Appellant**

Versus

Shri Popatlal M. Chordia, Aurangabad. .. **Respondent**

Mr Alok Sharma, Advocate for the appellant
Mr Vakil, Advocate for the respondent

ALONG WITH

INCOME TAX APPEAL NO. 43 OF 2014

The Commissioner of Income Tax,
Aurangabad. .. **Appellant**

Versus

Shri Popatlal M. Chordia, Aurangabad. .. **Respondent**

Mr Alok Sharma, Advocate for the appellant
Mr Vakil, Advocate for the respondent

CORAM : A.V. NIRGUDE &
V. K. JADHAV, JJ.
DATED: JANUARY 19TH, 2015

PER COURT :-

1. These appeals challenge the judgment and order of Income Tax Appellate Tribunal (ITAT), Pune, Bench-'B', Pune, in Income Tax Appeals No. 708/PN/2011, 709/PN/2011 and 710/PN/2011. By these judgments, the appeals of the respondent herein were allowed and the explanation he submitted on facts was accepted to avert penalty proceedings.

2. In brief, the facts of these cases are as under: -

In search and seizure proceeding, the Assessing Officer found certain entries in certain books of accounts. The Assessing Officer recorded statements of assessee's son about the entries and he disclosed that certain persons advanced loans to the assessee in cash, and in due course of time, the amounts were returned. Subsequently, the assessee took a stand that the amounts which he received from those two persons were not loans. They were earnest amount which he had received towards oral agreement for sale of certain property. The authorities below did not accept this stand and held that the respondent / assessee is liable to pay penalty under Section 271 D and 271 E of the Income Tax Act. In the appeals filed by the assessee, the ITAT held that in the facts and circumstances of the cases as well as in view of the harsh nature of section 271 of the Income Tax Act, they were more inclined to accept the explanation given by the assessee than the statements of his son, which was recorded earlier.

3. Since all these cases were decided on facts, we decline to take a different view though it is possible. There is no substantial question of law arising in these appeals. Hence, appeals stand dismissed.

[V.K. JADHAV, J.] **[A.V. NIRGUDE, J.]**

sgp