IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

TAX APPEAL NO.74 OF 2005

The Commissioner of Income Tax-II ... APPELLANT

VERSUS

Shri Shobhraj T. Chandwani
Deceased, through L.R.
Dinesh Motumal Chandwani ... RESPONDENT

.....
Shri Alok Sharma, Standing Counsel for appellant
.....

W I T H

TAX APPEAL NO.76 OF 2005 WITH
CIVIL APPLICATION NO.10504 OF 2008

The Commissioner of Income Tax-II ... APPELLANT

VERSUS

Shri Shobhraj T. Chandwani
Deceased, through L.R.
Dinesh Motumal Chandwani ... RESPONDENT

.....
Shri Alok Sharma, Standing Counsel for appellant
.....

W I T H

TAX APPEAL NO.77 OF 2005 WITH
CIVIL APPLICATION NO.10503 OF 2008

The Commissioner of Income Tax-II ... APPELLANT

VERSUS

Shri Shobhraj T. Chandwani
Deceased, through L.R.
Dinesh Motumal Chandwani ... RESPONDENT

.....
Shri Alok Sharma, Standing Counsel for appellant
.....

W I T H

TAX APPEAL NO.78 OF 2005

The Commissioner of Income Tax-II ... APPELLANT

VERSUS

Shri Shobhraj T. Chandwani
Deceased, through L.R.
Dinesh Motumal Chandwani ... RESPONDENT

.....
Shri Alok Sharma, Standing Counsel for appellant
.....

W I T H

TAX APPEAL NO.79 OF 2005

The Commissioner of Income Tax-II ... APPELLANT

VERSUS

Shri Shobhraj T. Chandwani
Deceased, through L.R.
Dinesh Motumal Chandwani ... RESPONDENT

.....
Shri Alok Sharma, Standing Counsel for appellant
.....

CORAM: S.V. GANGAPURWALA AND A.I.S. CHEEMA, JJ.

DATED: 10th April, 2015.

ORAL ORDER :

1. The person against whom penalty is imposed, is dead. His son is brought as a legal heir.

2. Mr. Alok Sharma, learned counsel for the appellant submits that, the reasoning given by the Commissioner and the Tribunal is ex-facie and per say erroneous. The reasoning that the assessee bonafidely believed that the provisions of Sections 269SS and 269T are not applicable as such entitled to be exonerated from imposition of penalty is erroneous. The Assessing Officer has rightly considered all the relevant aspects of the matter though the transaction was between the father and son. The transaction above Rs.20,000/- attracted the provisions of Sections 269SS and 269T of the Income Tax Act. Non compliance of the said provisions entail levy of penalty. This aspect was rightly considered by the Assessing Officer. However, on the wrong premise the Commissioner (Appeals) and the Tribunal have set aside the order of the penalty levied under

Section 271D and 271E against the assessee.

3. We have considered the submissions canvassed by the learned counsel for the appellant. The present Tax Appeals can be entertained only on substantial question of law. The Commissioner (Appeals) and the Tribunal have concurrently arrived at a conclusion that the transaction between the father and son was a genuine transaction. The facts have been discussed by the Commissioner (Appeals) in detail wherein the Commissioner (Appeals) and the Tribunal have accepted that the son was a contractor and he was required to go out every time and so the amount was kept with the father for making payments to the Creditors. After considering the said factual aspects, both the authorities came to a concurrent conclusion about the transaction and have passed an order setting aside the penalty imposed by the Assessing Officer. This Court in case of Commissioner of Income Tax Vs. Eetachi (referred supra) has also considered similar aspect.

4. Considering the aforesaid aspects of the matter, the appeals are dismissed. No costs.

5. In view of dismissal of appeals, pending Civil Applications are disposed of.

(A.I.S. CHEEMA, J.) (S.V. GANGAPURWALA, J.)

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