IN THE HIGH COURT OF BOMBAY AT GOA

TAX APPEAL NO. 32 OF 2015

The Commissioner of Income Tax
Aaykar Bhavan,
Patto, Panaji Goa. …. Petitioner

V e r s u s

Shri Ivan Singh
S-6, Ground Floor,
Behind Mahalaxmi temple,
Panaji-Goa. ….. Respondent

Mrs Asha A. Desai, Advocate for the Petitioner.

CORAM: F. M. REIS, &
M. S. SANKLECHA, JJ
DATE: 16TH APRIL, 2015.

ORAL ORDER:

This appeal by the Revenue under Section 260A of the Income Tax Act 1961 (the Act) challenges the order dated 9/5/2015 passed by the Income Tax Appellate Tribunal (Tribunal), Panaji. The assessment year involved is AY 2010-2011.

2. The Appellant- Revenue has formulated the following question of law for our consideration:

> Whether the ITAT was right in restricting the addition to Rs.18,07,817/- out of the addition of Rs.44,96,024/- made on account of under valuation of closing stock?

3. On 26/9/2010 the Respondent- Assessee filed its return of income for AY 2010-2011 declaring an income of Rs.2.70 crores. The Assessing Officer by order dated 20/3/2013 under Section 143 (3) of the Act inter alia added an amount of Rs.44.96 lakhs to the return income on enhancement of the value of the closing stock of iron ore. This was done on the basis of adopting the purchase price of last consignment to the entire closing stock of iron ore.

4. The Assessee being aggrieved filed an appeal to the Commissioner of Income Tax (Appeals) (CIT (A)). The CIT (A) on examining the respondent's submissions and accounts by an order dated 20/10/2013 came to the conclusion that the valuation of closing stock could not be on the last purchase price (highest price) of purchase of iron ore. The CIT (A) segregated the stock of iron ore on the basis of the supplier of the same and valued the same on that basis. On the above basis, under -valuation of the closing stock was

found to be of Rs.18.07 lakhs. Consequently, the difference between Rs.44.96 lakhs and Rs.18.07 lakhs was deleted from the order of the Assessing Officer.

5. On further appeal, the Tribunal by the impugned order confirmed the finding in the order dated 20/10/2013 of the CIT (A). The addition to the value of closing stock was restricted to as Rs.18.07 lakhs on the ground that the valuation of closing stock has to be done at the supply price of the same when purchased.

6. It is noticed that both the CIT (Appeals) and the Tribunal have reached a concurrent finding of fact that the valuation of the closing stock has to be enhanced by Rs.18.07 lakhs. The value of closing stock was determined by relating it to the price at which it was purchased. Thus the addition to the value of the closing stock which was sustained out of Rs.44.96 lakhs done by the Assessing Officer is only to the extent of Rs.18.07 lakhs. Therefore in view of the concurrent finding of fact by two authorities which are not shown to be either perverse or arbitrary, no substantial question of law arises for our consideration. Accordingly, the question as proposed by the Appellant- Revenue is dismissed.

7. Appeal is dismissed. No order as to costs.

M. S. SANKLECHA, J F. M. REIS, J.

Ap/-