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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.548 OF 2008

The Commissioner of Income Tax, Central-I ..Appellant.
V/s.
M/s. Mul Health Care Products Ltd. ..Respondent.

Mr.N.C.Mohanty with Ms.Padma Divakar for the appellant.
Mr. F.V.irani with Mr. A.K.Jasani for the respondent.

**CORAM : S.C.DHARMADHIKARI AND A.K. MENON, JJ.**

**DATED : 17TH MARCH, 2015**

**P.C. :-**

1. We have heard Mr.Mohanty, learned counsel appearing on behalf of the revenue in support of this appeal.

2. The revenue is aggrieved by the concurrent findings recorded by the Commissioner of Income Tax (Appeals) and the Tribunal. The Tribunal in the impugned order dated dated 7th February, 2006 has upheld the order of the Commissioner of Income Tax (Appeals).

3. The issue was of correctness of the notice issued under section 158BC of the Income Tax Act, 1961 for the block

assessment proceedings. We do not find any substantial question of law arising from a finding in favour of the revenue that a notice initiating block assessment does not suffer from legal infirmities requiring any interference by this Court.

4. The only argument canvassed before us is that the Commissioner of Income Tax (Appeals) did not grant full relief to the assessee and restricted it in terms of its directions in para 4 of his order.

5. The Tribunal has interfered with this part of the order of the Commissioner as well and that according to Mr.Mohanty raises substantial question of law.

6. We are unable to agree with Mr.Mohanty for more than one reason. In the order of the Commissioner of Income Tax (Appeals), we find that there are four grounds referred. The assessing officer had erred in adding a sum of Rs.8,98,36,614/- as undisclosed income of the assessee for the block period on the alleged ground that the purchases of raw materials and spare parts from Ramesh Parekh group of concerns were bogus. The Commissioner of Income Tax (Appeals) had before him the cases of M/s. Mul Dent Pro Ltd.

and the present one namely M/s.Mul Healthcare Products Ltd. The Commissioner of Income Tax (Appeals) upheld the order in the case of M/s.Mul Dent Pro Ltd. and held that the order in relation to the present assessee passed by the assessing officer contains identical facts. The appellate order dealing with the order of M/s.Mul Dent Pro. Ltd. has been upheld. That order was passed on 3rd August, 2000. The assessing officer's order adding the above sum was interfered with and the Commissioner of Income Tax (Appeals) maintained it to the extent of 10%. Thus, 10% of the sum of Rs.8,98,36,614/- was held to be from inflated purchases.

7. Now, this as well has been deleted by the Tribunal and the reasons for the same are to be found in paragraphs 35 and 36 of the impugned order. The Tribunal has concluded that all the disputed purchases have already been reflected in the regular books of accounts. The Commissioner, therefore, undertook this exercise and established that the books indeed reflected such purchases. Therefore, if the books of accounts and other documents relevant for this purpose in terms of the Tribunal's conclusion establish that the assessing officer's conclusion that the purchases are bogus cannot be sustained,

then, the sustainence to the extent of 10 / 11% by the Commissioner of Income Tax (Appeals) was also not justified and is unsustainable, that is only because it was based on loose sheets. On the strength of these loose sheets, a case of bogus purchase cannot be made out. There is no other evidence other than this and available on record with the assessing officer. It is in these factual circumstances that the order passed by the Commissioner even to the above extent has been set aside. We do not find that such conclusion and essentially on the facts as are to be found in paragraphs 37 to 40 of the impugned order would raise any substantial question of law. The Tribunal's conclusions are consistent with all the documents and their contents. This is nothing but an attempt to seek re-appreciation and re-appraisal of such factual conclusion. That is not permissible in law in our limited jurisdiction, moreso, when we do not find any perversity in the order of the Tribunal. As a result of this discussion, the appeal fails. It is accordingly dismissed. No order as to costs.

**(A.K. MENON, J.)** **(S.C.DHARMADHIKARI, J.)**