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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.708 OF 2013

The Commissioner of Income-Tax-I, Mumbai ..Appellant.

V/s.

Mahendrakumar Bhabutmal Oswal ..Respondent.

Mr.N.N.Singh for the Appellant.

None for the respondent.

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

DATED : 23RD MARCH, 2015.

P.C. :-

1. This appeal by the Revenue challenges the order passed by the Income Tax Appellate Tribunal in three appeals. They are for the block period of assessment from 1st April, 1990 to 17th November, 2000 and from 1991-92 to 2001-02. The first two appeals for the block period 1st April, 1990 to 17th November, 2000 were cross appeals. They were directed against the order of the Commissioner of Income Tax, Pune whereby the assessee was aggrieved to the extent indicated

in the order, whereas the Revenue was aggrieved by reduction of penalty amount.

2. The assessee was subjected to search and seizure operation carried out at his residential and business premises. During the course of such search, the books of account and other documents belonging to the assessee and the family members were seized. In response to notice under Section 158BC of the Income Tax Act, 1961, the assessee filed a return declaring the total income of ₹24,18,000/- for the block period.

3. The only argument is that if this is the income disclosed by the assessee, the Tribunal's order if given effect to would reveal that the income of Rs.19,00,000/- is less, therefore, the Tribunal should not have passed the order bringing about such reduction.

4. We are unable to agree with Mr.Singh because, the Tribunal order only considers as to how the additions could not have been made by the assessing officer. The total income and certain sales which have been questioned, were explained by the assessee. The Tribunal has found from reading of the

entire factual material that the assessing officer computed the total sales at ₹1,25,90,140/- during the block assessment period 1/4/2000 to 17/11/2000 when the sales were determined by the Commissioner at ₹32,46,701/-. The Tribunal has considered this aspect and after referring to the seized documents and their contents, came to the conclusion that the order of the Commissioner determining the sales at ₹32,46,670/- cannot be faulted. The Tribunal also found that for the earlier period the exercise carried out in terms of the provisions cannot be sustained in its entirety. Thus, these cross appeals were dismissed. We do not find that from such exercise undertaken by the Tribunal, the present appeal can be entertained. It does not raise any substantial question of law. With regard to the submissions of the learned counsel appearing for the Revenue, we do not find any basis for the same. The grounds of appeal and as recorded in the Memo have been dealt with by the Tribunal. We do not find that the Tribunal's order and arising from a factual position could be termed as perverse or vitiated by any error of law apparent on the face of the record.

5. The entire exercise carried out under section 158BC

of the I.T. Act, has been analysed in terms of the relevant provisions. In the circumstances, the appeal does not raise any substantial question of law and is, therefore, dismissed. No order as to costs.

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