FARAD CONTINUATION SHEET

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.

Mis. Civil Application (mca) NO. 574 OF 2015
(In Income Tax Appeal No. 90/13[D])

The Commr. of Income Tax, Nagpur

v.

Smt. Sujata Sanjay Ranka

Office Notes, Office Memoranda of Coram appearances, Court's orders or directions and Registrar's orders.	Courts's or Judge's orders

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Coram : B.P .Dharmadhikari and
V.M.Deshpande, JJ.

Date : 23rd NOVEMBER, 2015

Effort of Revenue is to seek review of the order dated 21.4.2015 delivered by this Court in ITL No. 90/13.

Perusal of the said order shows that ITAT has followed the earlier order in case against the husband of assessee. This position then pointed out to us is not in dispute. The fact that said appeal was decided on 16.10.2012 and further appeal against it to this Court under Section 260-A of Income Tax Act by Revenue came to be dismissed is also not in dispute. In the light of these facts, the order dated 21.4.2015 came to be passed.

Now by inviting our attention to paragraphs 3.1, 3.2 and 3.3

Advocate Parchure submits that looking to the frequency of transactions and their proportion, the findings recorded by ITAT on facts are also not correct. In the light of the said proportion, effort is also made to distinguish the judgment delivered by the ITAT and the subsequent judgment of this Court in the matter of *Commissioner of Income Tax v. Gopal Purohit* reported at **(2010) 228 CTR (Bom) 582.**

Advocate Dewani, on the other hand, while pointing out limited scope for review in the present matter, has invited our attention to a finding of ITAT that Revenue did not dispute the fact that the assessee was holding the shares as the investments. He has then invited our attention to the observations of C.I.T. in paragraph 6.1 to urge that period of holding of shares is found to be between 10 years to 2 years. He further submits that the 5620 shares of Bajaj Auto Ltd. sold during the year were inherited by the appellant from her mother-in-law and the surplus of the income, i.e. Rs.1,45,69,410/- has also been treated as business income.

After hearing respective counsel, we note that as against the finding of fact recorded by C.I.T. and the remarks of ITAT that the Revenue did not deny that there was holding of shares as investment, in the memo of appeal presented before this Court, there was no specific challenge that the said findings were perverse. No grounds in support were then pressed into service. We have passed earlier order after full opportunity to the parties.

Today, Advocate Parchure has drawn our attention to the

Assessment Order, particularly the chart, which forms part of paragraph 4 of the Assessment Order. We, therefore, find that in Review effort is being made to question the findings of ITAT which were not questioned before this Court when it decided Income Tax Appeal No. 90 of 2013 on 21.4.2015. As such, no case is made out. M.C.A. is rejected.

JUDGE **JUDGE**

/TA/