IN THE HIGH COURT OF BOMBAY AT GOA

TAX APPEAL NO. 28 OF 2016

THE PR. COMMISSIONER OF INCOME TAX, PANAJI. ... Appellant

Versus

M/S. PUTZMEISTER INDIA PVT. LTD., ... Respondent

Ms. Asha A. Desai, Advocate for the appellant.

Coram:- F. M. REIS &
NUTAN D. SARDESSAI, JJ.

Date:- 26th September, 2016

P.C.:

Heard Ms. Asha Desai, learned Counsel appearing for the appellant.

2. The above appeal challenges the Order passed by the Commissioner of Income Tax (Appeals) dated 22/11/2013 and the Order passed by the Income Tax Appellate Tribunal dated 10/06/2015 whereby the appeals preferred by the appellant herein came to be dismissed.

3. Ms. Asha Desai, learned Counsel appearing for the appellant has taken us through the assessment carried out by the Assessing Officer to point out that the expenses incurred towards advertisement amounting in a sum of Rs.22,42,303/- were found unreasonable considering the expenses incurred during the previous

years. The learned Counsel further points out that there is a categorical finding arrived at by the Assessing Officer to the effect that such expenses could not be allowed considering the huge amount claimed and the value of the business activities of the respondent-assessee. The learned Counsel further points out that the CIT(A) has erroneously justified such expenses, on the basis of the agreement produced on record. The learned Counsel further points out that the Income Tax Appellate Tribunal has confirmed the findings of the CIT(A) without considering that there was a categorical finding by the Assessing Officer to the effect that such expenses were doubtful in the facts and circumstances of the case. The learned Counsel, as such, submits that there are substantial questions of law on that count which require consideration in the present appeal.

4. We have considered the submissions of the learned Counsel. With the assistance of the learned Counsel, we have also gone through the record. The learned CIT(A) while examining the challenge to the disallowing of such expenses claimed by the respondent has come to the conclusion that as the appellant-Revenue has failed to challenge the authenticity of the vouchers produced by the respondent, as well as the agreement between the parties, the question of disallowing such expenses would not arise. The CIT(A) has examined the materials on record to come to the conclusion that there was no challenge to the genuineness of the expenses incurred

by the respondent which are stated to be towards advertisements. The ITAT, whilst examining the appeal preferred by the appellants has confirmed such findings of fact arrived at by the CIT(A) to come to the conclusion that as the appellant-Revenue has not disputed the genuineness of such payment, the question of disallowing such expenses would not at all arise. In such circumstances, we find that the fact finding Authorities have categorically come to the conclusion that the amounts were actually spent towards advertisements as the genuineness thereof was not disputed by the appellant and, as such, there are no substantial questions which arise for consideration in the above appeal under Section 260A of the Income Tax Act. The learned Counsel appearing for the appellants, based on the material on record, was unable to point out that such findings of fact arrived at by the Authorities were by misreading or overlooking any specific material which would disclose that the genuineness of such payments were doubtful. In such circumstances, as there is no perversity in such findings of fact, there are no substantial questions of law for consideration in the present appeal under Section 260A of the Income Tax Act.

The appeal stands accordingly rejected.

NUTAN D. SARDESSAI, J. F. M. REIS, J.

ssm.