IN THE HIGH COURT OF BOMBAY AT GOA

TAX APPEAL NOS. 35 & 36 OF 2016

TAX APPEAL NO. 35 OF 2016

Mrs. Neena Kiran Padiyar,
herein represented by her duly
Constituted Attorney
Mr. Kiran Gajanan Padiyar
having office at
12, 2nd Floor, Sapana Chambers,
Varde Valaulikar,
Margao Goa. 403 601. …. Appellant

V e r s u s

1. Commissioner of Income Tax
   having office at
   Patto Aayakar Bhavan
   Panjim 403 001.

2. Asst. Commissioner of Income Tax
   Circle – 1,
   having office at
   Margao – 403 001. …. Respondents

AND
TAX APPEAL NO. 36 OF 2016

Mr. Kiran Gajanan Padiyar,
having office at
12, 2nd Floor, Sapana Chambers,
Varde Valaulikar,
Margao Goa. 403 601. …. Appellant

V e r s u s

1. Commissioner of Income Tax
   having office at
   Patto Aayakar Bhavan
   Panjim 403 001.

2. Asst. Commissioner of Income Tax
   Circle – 1,
   having office at
   Margao – 403 001. …. Respondents

Mr. D. E. Robinson, Advocate for the appellant.

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

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

Date:- 18th August, 2016

ORAL JUDGMENT (Per F. M. Reis, J)

Heard Mr. D. Robinson, learned counsel appearing for the appellant and Ms. A. Desai, learned counsel appearing for the respondents.

2. Admit on the following substantial question of law :

Whether the learned Tribunal was justified to remand the matter to the Assessing Officer when the appellant do not desire to rebut or lead any evidence in support or otherwise on the additional documents produced before the learned Tribunal ?

3. Heard forthwith with the consent of the learned counsel.

4. Ms. A. Desai, learned counsel waives service on behalf of the respondents.

5. The learned counsel appearing for the appellant has raised an objection to the manner in which the impugned order was passed by the learned Tribunal on the ground that the additional documents have been allowed to be produced without giving any reasons and that the matter has been remanded to the Assessing Officer to produce such documents and permit the parties to lead evidence when the appellant do not desire to rebut any evidence nor disprove the contents thereof. It is also pointed out that the withdrawal of the cross objection before the learned Tribunal has attained finality as the appellant has not challenged such withdrawal in the present appeals.

6. Ms. A. Desai, learned counsel appearing for the respondents submits that in case the appellant do not desire to lead any evidence in rebuttal or to disprove the contents of the documents sought to be produced, the learned Tribunal will examine the appeal preferred by the Revenue afresh in accordance with law. As the appellant do not desire

to place any further evidence to rebut such additional documents the question of remanding the matter to the Assessing Officer is not required.

7. Taking note of the contention of the learned counsel appearing for the appellant, we find that the statement of the learned counsel appearing for the appellant upon instructions of the appellant that the appellant do not desire to rebut such documents nor disprove the contents thereof stands accepted. As such, we find it appropriate to direct the learned Tribunal to examine the appeal filed by the Revenue afresh after complying with the relevant provisions of law before allowing the documents to be allowed to be produced in accordance with law.

8. In view of the above, we pass the following :

O R D E R

(i) The appeals are partly allowed.

(ii) The impugned order passed by the learned Tribunal dated 16.06.2015 is quashed and set aside.

(iii) The learned Tribunal is directed to decide the appeal of the Revenue afresh in the light of the observations made herein above in accordance with law.

(iv) The appeals stand disposed off accordingly.

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

at*