IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

**INCOME TAX APPEAL NO.297 OF 2014**

Commissioner of Income Tax 25 .... Appellant
Vs.
Uday M. Ghare .... Respondent

Mr. Arvind Pinto for the Appellant.
Dr. K. Shivaram, Senior Counsel with Ms Neelam C. Jadhav for the Respondent.

**CORAM:** S.C. DHARMADHIKARI &
B.P. COLABAWALLA, JJ.

**DATE :** MARCH 06, 2017

**P.C:**

Having heard Mr. Pinto at some length and perusing with his assistance the order, dated 19-7-2013, passed by the Income Tax Appellate Tribunal, "F" Bench, Mumbai in Income Tax Appeal No.4125/Mum/2012 for the Assessment Year 2009-10, we are of the view that the same does not raise any substantial question of law. On the own of the Assessing Officer he sought to question the method of accounting only because the assessee has not been regularly following the same or the income is not computed in accordance with the standards notified under sub-section (2). We do not find that there was any material with regard to the standards and notified. It is only whether the assessee was consistent in following the method of accounting provided in sub-section (1) of Section 145 of the Income Tax Act, 1961. If that is the other eventuality in which the Assessing Officer derives his power in terms of Section 145, then, in para 12 the Tribunal has found that the assessee has maintained proper books of account. No defect has been pointed out by the Assessing Officer either in the purchases or in the sales. The assessee was in the business of manufacturing and trading of jewellery. If the method of valuation of closing stock was not acceptable, then, the Assessing Officer was obliged to not only discard the explanation of the assessee but also satisfy the Appellate Authority and the Tribunal in this case as to why such average cost method was accepted by the Assessing Officer in the earlier orders. Once the Tribunal comes to such a finding, then, that belies the contention of Mr. Pinto and particularly in relation to the average cost method followed consistently by the assessee. There has been no deviation from the same. In such circumstances, we do not think that the Tribunal's order raises any substantial question of law. The appeal is devoid of merit. It is dismissed.

(B.P. COLABAWALLA, J.) (S.C. DHARMADHIKARI, J.)