

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.436 OF 2015

The Pr.Commissioner of Income-Tax-3 ... **Appellant**
V/s.

M/s.Bhagwan Industries Ltd. ... **Respondent**

....

Mrs.Padma Divakar, Advocate for the Appellant.

Ms.Aasifa Khan, Advocate for the Respondent.

....

**CORAM : S.V.GANGAPURWALA &
A.M.BADAR JJ.**

DATED : 18th July 2017.

P.C.

1 The present Appeal pertains to Assessment year 2004-05. The learned counsel for the Appellant submits that Tribunal was not justified in not accepting the re-working of the book profits by the Assessing Officer as per the provisions of Section 115JB of the Income Tax Act. The Assessee had directly credited the profit of Rs.2,84,84,000/- arising from sale of land to Capital Reserve Account in the balance sheet rather than routing it through Profit and Loss Account in the manner provided as per Part-II and Part-III of Schedule VI to the Companies Act, 1956.

2 The learned counsel for the Respondent supports the Order.

3 Tribunal while passing the impugned Order observed that while computing the book profit under Section 115JB of the Income-Tax Act, the Assessing Officer added the sum of Rs.2,84,84,000/- in the book profit. The Commissioner of Income-Tax (Appeals) deleted the addition. The Tribunal referring to the Judgment of the Apex Court in a case of *Apollo Tyres Ltd. v. C.I.T.* reported in **255 ITR 273** and Judgment of this Court in case of *Akshay Textiles Trading and Agencies Pvt.Ltd.*, reported in **304 ITR 401** has observed as under :

“Respectfully following the decision of Hon'ble Bombay High Court in the case of *Abdhut Trading Co. Pvt. Ltd.* (supra) and in the case of *Akshay Textiles Trading and Agencies Pvt. Ltd.* (supra), we do not find any infirmity in the order of ld. CIT(A) for deleting the addition under Section 115JB.”

4 In light of above, the Tribunal has not committed any error. The Appeal as such is dismissed. No costs.

(**A.M.BADAR J.**)

(**S.V.GANGAPURWALA J.**)