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

INCOME TAX APPEAL NO. 1268 OF 2014

The Commissioner of Income Tax,
Central-IV .. Appellant
v/s.

M/s. Classic Electricals Ltd. .. Respondent

Mr. Arvind Pinto for the appellant

CORAM : S.V. GANGAPURWALA &
G.S. KULKARNI, J.J.

DATED : 14th JUNE, 2017

P.C.

1. The present appeal arises against the judgment of the Tribunal allowing the appeal of the assessee.

2. The Revenue has filed the present appeal on the following ground :-

(i) Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in deleting the addition made by the Assessing Officer u/s 69B of the Act, of Rs.1,06,18,870/- ignoring the comparable prevailing rates of the properties of the same locality and the valuation report of

the said property obtained from the DVO as per Section 55A of the Act?

3. Mr. Pinto, learned Counsel for the appellant strenuously contends that the Tribunal was not justified in deleting the addition made by the Assessing Officer under Section 69B of the Act, ignoring the comparable prevailing rates of the properties of the same locality and the valuation report of the said property obtained from the DVO as per Section 55A of the Act. The learned Counsel submits that the Revenue is not a party to the transaction, as such it would not have a direct evidence but considering the valuation report placed on record so also comparable sales instances produced on record, the Assessing Officer had rightly arrived at the valuation. As such, the order of the Tribunal deleting the addition under Section 69B of the Act is erroneous. The same is also improper, considering the facts of the present matter.

4. We have gone through the judgment of the Assessing Officer, CIT(A) and the Tribunal.

5. It has been observed by the Tribunal that the comparable sales

instances produced on record are of commercial properties and the property in question is a residential flat. The explanation given by the assessee has been considered by the Tribunal. The assessee has given explanation that after 1981, the said property was lying vacant, the property was ill-reputed inasmuch as the Municipal Corporation had issued notice under Section 52 of the MRTP Act for illegal possession. The agreement of sale is also produced on record. The initial burden is upon the Revenue. The explanation given by the assessee is required to be considered objectively. The Tribunal has also held that the explanation given by the assessee is a plausible explanation.

6. Considering the explanation given by the assessee, the Tribunal has arrived at a reasonable and plausible conclusion.

7. Considering the above, no substantial question of law arises. The appeal as such is dismissed. No costs.

(G.S. KULKARNI, J.) **(S.V. GANGAPURWALA, J.)**