IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDITION

INCOME TAX APPEAL NO.1690 OF 2014

The Commissioner of Income-Tax-8 ... **Appellant**
V/s.
Shri.Atul Barot ... **Respondent**

.....

Mr.Arvind Pinto, Advocate for the Appellant.

Mr.Nitesh Joshi with Mr.Atul K. Jasani, Advocate for the Respondent.

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

DATED : 12th July 2017.

P.C.

1 The present appeal pertains to Assessment year 2003-04. The present Appeal is filed by the Revenue on the following grounds :

"a) Whether on the facts and circumstances of the case and in law, the Hon'ble Tribunal was correct in narrowing down the scope of assessment u/s. 153A in respect of completed assessments by holding that only undisclosed income and undisclosed assets detected during search could be brought to tax ?”

2 Mr.Pinto, the learned counsel for the Revenue submits that the Tribunal was in error in observing that assessment under Section 153A of the Act has to be restricted to the incriminating evidence/documents found during the search. According tot he learned counsel, the other evidence can also looked into. Initial assessment was under Section 143(3) of the Act. According to the learned counsel, the Tribunal could not have answered issue of scope of Section 153A of the Act.

3 The learned counsel for the Respondent supports the Order and submits that the issue is covered by the Judgment of this Court in case of ***the Commissioner of Income-Tax v. Continental Warehousing Corporation (Nhava Sheva) Ltd.*** reported in **[2015] 374 ITR 645 (Bom)**. The said Judgment is further relied in the Judgment of this Court in ***the Commissioner of Income-Tax v. Gurinder Singh Bawa*** in **Income-Tax Appeal No.1839 of 2013 delivered on 5th October 2015**.

4 The issue as raised in the present proceedings is no longer res integra in view of the authoritative pronouncements of this Court in ***the Commissioner of Income-Tax v. Gurinder Singh Bawa*** (referred to supra). This Court has in the said case

observed that assessment under Section 153A has to be restricted upon the incriminating evidence found during search. It is held that Section 153A of the Act does not give a right for a Assessing Officer to have second inning of assessment.

5 In light of the above, the Tribunal has not committed any error in passing the impugned order. The Appeal being sans of substantial question of law, the Appeal is dismissed.

6 No costs.

(A.M.BADAR J.) **(S.V.GANGAPURWALA J.)**