IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

MISC. CIVIL APPLICATION NO. 1298/2017
IN INCOME TAX APPEAL NO.3/2014.

Ballabhdas Udhaodas Mohata
Versus
The Commissioner of Income Tax, Nagpur.

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

CORAM : B. P. DHARMADHIKARI AND A.D. UPADHYE, JJ

DATE : MARCH 09, 2018

Heard Shri Saket Bhattad, learned Counsel appearing for the applicant and Shri A. Parchure, learned Counsel for non-applicant.

2. Submission is, Vouchers which bring on record expenditure incurred by the applicant/ appellant could not have been ignored only because accounts were not maintained or were not audited. Submission is, for these errors/ omissions, at the most penalty under Section 271A or 271B of the Income Tax Act, 1961 could

have been inflicted.

3. It is urged that for earning income from technical consultancy, certain expenditure is essential and must be presumed. Our attention is also invited to provisions of Section 44ADA, added by 2017 Amendment, to show that this fact is also now statutorily recognized.

4. Non-applicant however, submits that there is no pleading on record to show that such expenses were necessary to support the income.

5. We have looked into the relevant provisions while disposing of the Income Tax Appeal by a reasoned judgment on 20.10.2015. The refusal by the Authorities consistently to look into the vouchers has been upheld by this Court also.

6. Vouchers are coming into picture as a proof of expenditure incurred. There has to be first an effort and a plea to demonstrate that without incurring a particular expenditure, that income could not have been generated. Such a

plea or material is factually absent on record. In this situation, we find that no case is made for review, Misc. Civil Application is accordingly disposed of. No costs.

<u>JUDGE</u> **<u>JUDGE</u>**

Rgd.