

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

INCOME TAX APPEAL NO.1302 OF 2016

Principal Commissioner of Income Tax(Central)-4	... Appellant
V/s.	
M/s Meridian Construction Pvt. Ltd.	... Respondent

Mr.A.R.Malhotra i/by Mr.Tejeev Singh for the Appellant.
Mr.Ravindra Poojary i/by Mr.Ajaykumar Singh for the
Respondent.

**CORAM : AKIL KURESHI AND
B.P.COLABAWALLA, JJ.
DATE : JANUARY 31, 2019.**

P.C.:-

1. This appeal is filed by the revenue challenging the judgment of the Income Tax Appellate Tribunal.

2. Learned counsel for the respondent-assessee pointed out identical issue as raised in the present appeal had come up for consideration before this Court concerning this very assessee, in Income Tax Appeal No.980 of 2016 and connected appeals. The appeals were dismissed by an order dated 8th January, 2019, making following observations:-

“The following question of law is presented for our consideration:-

Whether on the facts and in the circumstances of the case and in law, the ITAT was justified in deleting the addition on account of estimation of profit on sales not recorded in the books of accounts, without appreciating the fact that as per provisions of section 132(4A), the presumptions are that (a) the seized documents found in the premises of the assessee belong to the assessee and (b) the contents of the seized documents are true and that the assessee had failed to rebut the above presumptions?

2 The respondent assessed is a limited Company and is engaged in the business of construction. The assessee was subjected to search and seizure operation carried out by the Revenue Authorities on 10th August, 2006 pursuant to which notice under Section 153A of the Income Tax Act, 1961 (“the Act” for short) was issued. The Assessing Officer made additions relying on the documents seized during search and the statements of witnesses recorded. The Assessee carried the matter in appeal. The Commissioner (Appeals) deleted the additions. This was done after calling remand report on certain specific issues. The Revenue carried the appeal in appeal before the Tribunal. The Tribunal confirmed the view of the Commissioner by a detail order which is challenged before us by the Revenue.

3 Having heard the learned counsel for the parties and having perused the documents on record, we are of the view that the Tribunal has

arrived at conclusions which are purely factual in nature. The Tribunal concurrently came to the conclusion that there was no evidence in support of the additions made by the Assessing Officer which was collected during search operations. The documents relied upon by the Assessing Officer did not clearly bring about the on money transactions. During the remand report the parties to whom the property was sold were examined who clarified that no cash payments were made by the Assessee bringing on record no contrary material. In the absence of any perversity in the factual findings of the Tribunal, we see no question of law arises. In the result, the Appeals are therefore dismissed.”

3. In the result, this appeal is also dismissed.

(B.P.COLABAWALLA,J.)

(AKIL KURESHI,J.)

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