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

INCOME TAX APPEAL NO. 1447 OF 2017

Principal Commissioner of Income Tax-2, Thane … Appellant
V/s.
Hasmukh Jagdish Visaria ... Respondent

Mr. Sham Walve for the Appellant

CORAM : M.S. SANKLECHA &
NITIN JAMDAR, JJ.

DATE : 19 NOVEMBER 2019.

P.C. **:-**

This Appeal under Section 260A of the Income Tax Act, 1961 (the Act) challenges the order of the Income Tax Appellate Tribunal (Tribunal) dated 4 January 2019, This Appeal relates to Assessment Year 2010-11.

2. The Revenue has urged following questions of law for consideration :-

> *"(A) Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in not appreciating the fact that once the purchases have been unverifiable / not genuine / bogus, the same should have been disallowed in entirety ?"*

3. The impugned order of the Tribunal dismissed the Revenue's appeal on the above issue by *inter-alia* holding that once the Assessing Officer has accepted the sale, then the purchases could not be rejected in its entirety. This as there had to be purchases to support the sale. Therefore, the addition could only be made of the profit embedded by the purchases covered by the bogus bills.

4. In fact, this Court in *Principal Commissioner of Income Tax v/s. M/s. Paramshakti Distributors Pvt. Ltd. (ITXA No. 413 of 2017)* rendered on 15 July 2019 dismissed an identical issue raised by the Revenue by *inter-alia* observing as under :-

> *" Without elaboration, what the Tribunal by the impugned Judgment held is that the Department had not rejected the instance of the purchases since the sales out of purchase of such raw material was accounted for and accepted. With above position, the Tribunal applied the principle of taxing the profit embedded in such purchases covered by the bogus bills, instead of disallowing the entire expenditure. We do not find any error in the view of the Tribunal. No question of law arises."*

5. In the above view, the question proposed herein does not give rise to any substantial question of law. Hence, not entertained.

6. Thus the Appeal is dismissed.

NITIN JAMDAR, J. **M.S. SANKLECHA, J.**