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

INCOME TAX APPEAL NO.194 OF 2017

Principal Commissioner of Income Tax - 32 .... Appellant

versus

M/s Uni Packs (India) ... Respondent

…….

- Mr.Arvind Pinto, Advocate for Appellant.
- Ms.Asifa Khan, Advocate for Respondent.

CORAM : AKIL KURESHI &
SARANG V. KOTWAL, JJ.
DATE : 30th APRIL, 2019.

P.C. :

1. This Appeal is filed by the revenue to challenge the judgment of Income Tax Appellate Tribunal ('Tribunal' for short). Following question is presented for our consideration;

> "6.1 *Whether in law and on the facts of the instant case, was the Tribunal justified in deleting the addition made u/s 69C without appreciating that explanation given by the Assessee regarding the payments made to the "alleged suppliers" was not in the opinion of the AO satisfactory?*

6.2 Whether in law and on the facts of the instant case, was the finding of the Tribunal that the expenditure was accounted in the books of accounts sufficient to delete addition made under Section 69; whereas entries in the books do not indicate that the suppliers supplied the said goods?

6.3 Whether in law and on the facts of the instant case, was the decision of Tribunal deleting the addition justified in view of the statements of the parties that they did not supply any goods, but only gave accommodation entries for a small commission – a statement that remains uncontroverted by the Assessee?

6.4 Whether Hon'ble Tribunal was justified in law in not following the decision of the Hon'ble Allahabad High Court in the case of ACIT vs. Shanti Swaroop Jain, 55 Taxmann 378 which is identical to this case?

2. Issue pertains to additions made by the Assessing Officer in the hands of the Respondents-Assessee under section 69C of the Income Tax Act, 1961 ('the Act' for short). CIT (Appeals) and the Tribunal deleted the addition, interalia, on

the grounds that the Assessing Officer relied only on the material collected by the Sales Tax Department. He relied on submissions of witnesses without offering them for cross-examination. There was no independent evidence that the assessee's suppliers were not genuine. The assessee had also pointed out that the payments were made through cheque and further the department has accepted the sales out of the purchases made by the assessee. On such grounds CIT (Appeals) and Tribunal were of the opinion that the Assessing Officer was not justified in invoking section 69C of the Act.

3. We do not find any error in view of the Tribunal. Findings of the facts are concurrent. Entire issue is based on appreciation of evidence on record. No perversity in the finding is pointed out. No question of law therefore arise. Appeal is dismissed.

(SARANG V. KOTWAL, J.) **(AKIL KURESHI, J.)**