

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

INCOME TAX APPEAL NO.219 OF 2017

Principal Commissioner of Income Tax,
Central-2

.... Appellant

versus

Umesh Ishrani

... Respondent

.....

- Mr.Suresh Kumar, Advocate for Appellant.
- None 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. Following question is presented for our consideration;

“Whether on the facts and in the circumstances of the case and in law, the Hon'ble ITAT was justified in deleting the addition on account of cash payment for purchase of shops by holding that the seized papers were not found from the premises of the assessee and hence

presumption u/s. 132(4A), u/s. 292C of the I T Act, 1961 are not applicable, without appreciating that the seized papers were found during search in the premises of one of the partners Sri Laxmichand Rohira of the same firm for purchase of shops by the firm and in the said seized documents, amounts of cash paid by all the partners are noted and assessments made in the case of the said partner Shri Laxmichand Rohira relating to his share of cash payment has become final, and therefore, that evidence is also relevant for assessment of other partners, including the assessee?”

2. The Respondent-Assessee is an individual. He was the partner of the firm. The Income Tax Department had carried out search and seizure operation during which certain loose papers were collected. On the basis of loose papers additions were made in the hands of the individual partners and on protective basis on the hand of the firm. While deleting such addition in case of the present assessee the Tribunal noted that the documents nowhere show that any payments were made by same persons, no enquiry or verification was made with the seller of the shops or the developer. Tribunal therefore

concluded that entries of the loose papers were not corroborated with any other evidence on record.

3. It can thus be seen that the entire issue is based on appreciation of evidence on record. The Tribunal noted that the loose papers entries were not clear and not corroborated by any independent evidence. No question of law therefore arises. Income Tax Appeal is dismissed.

(SARANG V. KOTWAL, J.)

(AKIL KURESHI, J.)