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

INCOME TAX APPEAL NO.379 OF 2017

Shri Shailesh R. Kothari … Appellant

V/s.

Union of India and ors. … Respondents

Mr.R.K.Thomar for the Appellant.

CORAM : AKIL KURESHI AND
SARANG V. KOTWAL, JJ.
DATE : APRIL 12, 2019.

P.C.:-

1. This appeal is filed by the assessee to challenge the judgment of the Income Tax Appellate Tribunal. Following questions are presented our our consideration:-

> "i. Whether the ITAT was right/correct in confirming the grant of only a partial relief by the CIT-A in the cash credit addition made by the ITO/AO under Section 68 of the Income Tax Act, 1961?
> ii. Whether the ITAT was right/correct in ignoring the principles of natural justice to say that when a partial relief has been granted, then on the same grounds how full and complete relief should not be granted?

> iii. Whether the ITAT was right/correct in rejecting the submissions of the Appellant by ignoring the Indian Family system wherein the head of the family takes care of the family expenses and all other members of the family contribute to the same?"

2. Appellant-assessee is an individual. The issues arise out of the return of income for the assessment year 2008-09. The assessee is a Commission Agent. The assessee had declared total income of Rs.1,14,980/-. During the course of scrutiny of the return, the Assessing Officer noticed that total cash deposits of Rs.12,19,500/- were made in the assessee's HSBC account. After confronting with the assessee's such cash credit, he added the said sum on assessee's unexplained cash credit. The assessee carried the matter before Commissioner. The Commissioner granted limited relief and deleted Rs.1,00,000/-, upon which the assessee approached the Tribunal. Tribunal by the impugned judgment dismissed the appeal, upon which the present appeal has been filed.

3. Having heard learned counsel for the parties and having

perused documents on record, we are of the opinion that the entire issue is based on appreciation of the evidence on record. No perversity is pointed out in the concurrent findings of the Assessing Officer, CIT (Appeals) of the Tribunal. The assessee does not dispute the cash credited in his bank account. His explanation however was that as head of the larger family, different family members had given him such cash for his expenditure and that of the family, which had deposited in the bank account. The revenue authorities and the Tribunal did not accept such explanation. It was held that the assessee failed to prove the source of his funds. We do not find any perversity in the conclusion of the revenue authorities, as confirmed by the Tribunal.

4. In the result, Income Tax Appeal is dismissed.

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

….