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

INCOME TAX APPEAL NO.602 OF 2017

Pr. Commissioner of Income Tax – 1 ... Appellant
versus
STCI Ltd. ... Respondent

Mr. Suresh Kumar, for Appellant.
Ms. A. Vissanji with Mr. S.J.Mehta, for Respondent.

CORAM: AKIL KURESHI &
S.J. KATHAWALLA, JJ.

DATE: 11th JUNE, 2019

P.C.:

1. This Appeal is filed by the Revenue to challenge the Judgment of the Income Tax Appellate Tribunal ("the Tribunal" for short). The following question is presented for reconsideration :

> (i) Whether on the facts and circumstances of the case and in law, the Hon'ble Tribunal was justified in deleting the addition of indemnity payment to the tune of Rs.5,10,00,000/- incurred in connection with the transfer of share in UTI Securities Ltd., for the purpose of computation of capital gain without appreciating that the said expenditure was incurred wholly and exclusively in connection with cost of improvement in the value of shares ?

2. The Respondent-assessee had sold certain shares through agreement. The

assessee had incurred expenses of Rs.10 Crores towards indemnity charages during such transactions. The assessee claimed such expenditure during the course of computation of its capital gains arising out of the sale of shares. The Assessing Officer refused to allow adjustment upon which the assessee carried the matter in Appeal. The Commissioner (Appeals) allowed the Appeal holding that such expenditure was incurred wholly and exclusively for the purpose of transfer of shares. However, noticing that the assessee had sold only 49% of its share holding, allowed the expenditure only to the extent of such proportion of the total expenditure, thereby disallowed the amount of Rs.5.10 Crores.

3. The Revenue did not carry the matter and accepted the decision of the Commissioner. The assessee carried the issue before the Tribunal. The Tribunal allowed the entire claim observing that the indemnity had to be provided which was part of the agreement and the entire expenditure was wholly and exclusive in relation to transfer of shares. We see no error in the decision of the Tribunal. The Income Tax Appeal is dismissed.

(S.J.KATHAWALLA, J.) **(AKIL KURESHI, J.)**