R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INCOME TAX APPEAL NO. 1592 OF 2017

Pr. Commissioner of Income Tax - Central 4 .. Appellant

Versus

Anil Mahavir Gupta .. Respondent

....

- Mr. Tejveer Singh for the Appellant
- Mr. B.M. Chatterjee, Sr. Advocate a/w Kavita Singh i/by Vishesh Srivastav for the Respondent

....

CORAM : UJJAL BHUYAN &
MILIND N. JADHAV, JJ.

DATE : JANUARY 21, 2020.

P.C.:

1. Heard Mr. Singh, learned standing counsel, revenue for the appellant and Mr. Chatterjee, learned Senior counsel for the respondent.

2. This appeal under Section 260A of the Income Tax Act, 1961 (**"the Act"** for short) is preferred by the revenue against the order dated 31.8.2016 passed by the Income Tax Appellate Tribunal, Mumbai Bench "A", Mumbai in Income Tax Appeal No. 9226/MUM/2010 for the assessment year 2005-06.

3. The appeal has been preferred on the following proposed substantial question of law:-

> " Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in upholding that the additions made in the assessment under Section 153A r/w Section 143(3) for A.Y. 2005-06 being not based on any incriminating material found in the search, were beyond the scope and ambit contemplated u/S. 153A?"

4. Respondent i.e assessee was a director of a company called M/s. S.K.S. Ispat Ltd.

5. In the course of the arguments, Mr. Chatterjee has placed before the Court a decision of this Court in the case of **Commissioner of Income-tax Vs. SKS Ispat & Power Ltd**[1] wherein this Court had dismissed the appeal of the revenue on the same question of law. Learned standing counsel, revenue fairly submits that the present issue has been answered by this Court in the case of SKS Ispat & Power Ltd (supra).

6. Relevant portion of the decision in SKS Ispat & Power Ltd (supra) reads as under:-

> "5. We have considered the arguments canvassed by the learned

1 [2017] 398 ITR 584 (Bombay)

counsel for the respective parties. On perusal of Section 153A of the Act, it is manifest that it does not make any distinction between assessment conducted under Section 143(1) and 143(3). This Court had occasion to consider the scope of Section 153A of the Act in the case of Gurinder Singh Bawa and in the case of Continental Warehousing Corpn. (Nhava Sheva) Ltd (referred to supra). It It has been observed that Section 153A cannot be a tool to have a second inning of assessment either to the Revenue or the assessee. Even in the case of Gurinder Singh Bawa (referred to supra), the assessment was under Section 143(1) of the Act and the Court held that the scope of assessment after search under Section 153A would be limited to the incriminating evidence found during the search and no further. In the said Judgment, the Judgment of this Court in Continental Warehousing Corpn. (Nhava Sheva) Ltd (referred to supra) has been followed.

6. Considering the authoritative pronouncements of this Court in above referred cases one of which is also with regard to assessment under Section 143(1), the issue is no longer *res integra* and stands concluded in the above referred Judgments.

7. In light of the above, the appeals being sans substantial question of law stand dismissed. No costs."

7. In view of the above, the present appeal is also dismissed as no substantial question of law arises from the order of the Tribunal. No costs.

[MILIND N. JADHAV, J.] **[UJJAL BHUYAN, J.]**

Ravindra M. Amberkar

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