IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INCOME TAX APPEAL NO.1975 OF 2017

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

V/s.

Anil Mahavit Gupta …Respondent

Mr. Tejveer Singh for Appellant
None for Respondent

CORAM : K.R. SHRIRAM &
AMIT B. BORKAR, JJ
DATED : 15th NOVEMBER 2021

P.C. :

1 At the outset, we have to note that this appeal has been filed against two concurrent findings against respondent, one by CIT (Appeals) and thereafter by ITAT. Appellant is impugning an order dated 31st August 2016 passed by the Income Tax Appellate Tribunal (ITAT), Mumbai.

2 Appellant has proposed the following substantial question of law:-

> *"(a) Whether on the facts and in the circumstances of the case and in law, the Hon'ble ITAT was justified in deleting the addition made in the assessment order in respect of unexplained sundry creditors u/s 68 of I.T. Act of Rs.24,03,56,882/- without appreciating that the parties from whom purchases are said to have been made had categorically accepted that they had given accommodation entries to the assessee ?"*

3 Respondent was carrying on business of trading in various steel products as sole proprietor in the name and style of M/s Gupta Steel Corporation. In the course of assessment proceedings for AY.-2006-2007, the Assessing Officer considered the maximum credit balance standing in the names of 8 creditors at Rs.24,03,56,882/- as unexplained credits within

the meaning of Section 68 of the Income Tax Act 1961 (the Act). The primary reason to hold that these aforesaid credits as unexplained was that the creditors are alleged to have admitted before the department that they have provided to respondent accommodation transactions only and thus, respondent had not made any actual purchases from the said creditors.

Admittedly, these creditors have later retracted the statement given by them and in paragraph 13.5 of the impugned order, ITAT has provided details of the 8 parties and the say of respondent on each of them.

4 There has been a finding of fact that after such retraction by creditors and recording of their statement by the Assessing Officer, there is nothing brought on record by the Revenue to disprove that such retractions are untenable or bad in the eyes of law. Even today there is nothing before us produced by the Revenue to prove that such retractions have to be ignored.

6 In our view, the ITAT has not committed any perversity or applied incorrect principles to the given facts and when the facts and circumstances are properly analysed and correct test is applied to decide the issue at hand, then, we do not think that question as pressed raises any substantial question of law.

7 The appeal is devoid of merit and is dismissed with no order as to costs.

(AMIT B. BORKAR, J) **(K.R. SHRIRAM, J.)**