**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INCOME TAX APPEAL NO.1293 OF 2017**

Pr. Commissioner of Income Tax Central-2 ….Appellant

V/s.

Deepika A. Mehta …Respondent

Mr. Suresh Kumar for Appellant
Mr. Ashwin Mehta a/w Mr. Govind Javeri i/b Mr. Vivek Sharma for Respondent

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**CORAM : K.R. SHRIRAM &
AMIT B. BORKAR, JJ
DATED : 6th DECEMBER 2021**

P.C. :

1 Mr. Suresh Kumar states that the court may pass order / directions as contained in paragraph 8 of the order dated 26th July 2017 in ITXA No.1193 of 2014 with ITXA No.1173 of 2014 which read as under:

"8 In light of above, we pass the following order:

i) The order of the Tribunal to the extent of allowing the production of additional evidence, that is, books of accounts, is maintained. However, we clarify that it will be open for the Assessing Officer to test the genuineness and authenticity of the entries in the books of accounts and thereafter pass assessment order afresh.

ii) The directions of the Tribunal with regard to determination of unaccounted investments, disallowance of deduction on account of interest expenditure, disallowance of deduction on account of other expenditure, to hold the sale of shares as capital gains and allow deduction under Section 48 of the Income Tax Act, will all depend upon the decision of the Assessing Officer with regard to the books of accounts and its decision upon the genuineness of the entries therein.

iii)The Assessing Officer will be entitled to take decision afresh in all aspects of the matter.

iv) It is also made clear that the Assessing Officer will provide the material relied by it to the assessee before passing any order.

v)The appeals, as such, are disposed of with aforesaid observations and directions."

2 Mr. Mehta states that appellant's have not yet complied with the contentions contained in the order dated 26th July 2017, which has been quoted above and not only in those two appeals but in many other matters.

3 In the circumstances, the following order is passed:

i) The order of the Tribunal to the extent of allowing the production of additional evidence, that is, books of accounts, is maintained. However, we clarify that it will be open for the Assessing Officer to test the genuineness and authenticity of the entries in the books of accounts and thereafter pass assessment order afresh.

ii) The directions of the Tribunal with regard to determination of unaccounted investments, disallowance of deduction on account of interest expenditure, disallowance of deduction on account of other expenditure, to hold the sale of shares as capital gains and allow deduction under Section 48 of the Income Tax Act, will all depend upon the decision of the Assessing Officer with regard to the books of accounts and its decision upon the genuineness of the entries therein.

iii) The Assessing Officer will be entitled to take decision afresh in all aspects of the matter.

iv) It is also made clear that the Assessing Officer will provide the material relied by it to the assessee before passing any order.

4 Appellant is directed to comply with the directions given above within 6 weeks from today. Respondents are also directed to comply with the

directions given in the order dated 26th July 2017 in ITXA No.1193 of 2014 and ITXA No.1173 of 2014, within 6 weeks from today.

5 Appeal disposed.

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