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

INCOME TAX APPEAL NO. 292 OF 2018

Principal Commissioner of Income Tax 10
Mumbai ….Appellant

V/s.

Pomona Trading Co. Pvt. Ltd. …Respondent

Mr. Akhileshwar Sharma for Appellant.
Mr. K. Gopal a/w Ms. Neha Paranjpe and Mr. Om Kandalkar for Respondent.

CORAM : K.R. SHRIRAM &
N. R. BORKAR, JJ.
DATED : 18th APRIL, 2022

P.C. :

1. The following two questions of law are proposed in the appeal :

QUESTION OF LAW

1. Whether on the facts and in the circumstances of the case and in Law, the Hon'ble ITAT is justified in adjudging that the second proviso to section 40a(ia) of the I.T. Act, 1961 introduced by Finance Act 2012 w.e.f. 01/04/2013 as held in Hon'ble Delhi High Court in CIT vs Ansal Landmark Township Pvt. Ltd. in ITA 160/161/2015 being declaratory and curative in nature will have retrospective effect and apply retrospectively without appreciating the fact that the SLP in the above mentioned case has been admitted by the Hon'ble Supreme Court?

2. Whether on the facts and in the circumstances of the case and in Law, the Hon'ble Tribunal was right in allowing relief on account of freight charges (see freight) relying solely on CBDT circular no. 723 without affording the AO an opportunity to verify the claim of payments made?

2. Mr. Sharma states that the first question is covered by order of this court in ***Pr. Commissioner of Income Tax – 5 vs. Perfect Circle India Pvt. Ltd.***[1]

1 Income Tax Appeal No.707 of 2016 dated 7th January, 2019

3. As regards the second proposed question, in our view it is a pure question of fact.

4. Appeal accordingly dismissed.

(N. R. BORKAR, J.) **(K.R. SHRIRAM, J.)**