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

INCOME TAX APPEAL NO. 1838 OF 2017

Principal Commissioner of Income
Tax – 13 ….Appellant

V/s.
Rajhans Metal Pvt. Ltd. …Respondent

Mr. Akhileshwar Sharma a/w Mr. Vikas T. Khanchandani for Appellant.
Mr. Paras Savla for Respondent.

CORAM : K.R. SHRIRAM &
N. J. JAMADAR, JJ.
DATED : 3rd MARCH, 2022

P.C. :

1. The following substantial question of law is proposed :

QUESTION OF LAW

1. Whether in law and on the facts, the Hon'ble ITAT was correct and justified in quashing the order u/s. 263 in the face of error and prejudice caused by Assessing Officer's failure to verify huge falls in gross profit.

2. We have perused the impugned order and we do not find any infirmity in the order passed by the Income Tax Appellate Tribunal (ITAT). The ITAT has correctly relied upon the judgment of this court in ***Commissioner of Income Tax vs. Gabriel India Ltd.***[1] Even in the case at hand the Assessing Officer had raised queries on the drop of gross profit and the assessee had submitted requisite information/details along with explanation vide its submissions dated 8th November, 2011 and 14th November, 2011. All these are parts of the records of the case. The

---

1 [1993] 71 Taxman 585 (Bombay)

Assessing Officer accepted the explanation being satisfied with the explanation. Such a decision cannot be held to be erroneous simply because in his assessment order the Assessing Officer did not make any elaborate discussion in that regard. Moreover, in the instant case, the Commissioner himself, even after initiating proceedings in revision and hearing the assessee, has simply said submissions made by the assessee are considered but the same is not acceptable. The Commissioner has not given any detailed explanation why the explanation of the assessee was not acceptable. Without coming to such conclusion or discussing why assessee's explanation was not acceptable, the Commissioner cannot simply ask the Assessing Officer to conduct enquiries/fresh determination.

3. In the circumstances, we do not find anything erroneous in the order passed by the ITAT.

4. In our view, the Tribunal 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.

The appeal is devoid of merits and it is dismissed with no order as to costs.

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

Purti Parab