

Shiv

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.130 OF 2009**

Kalyan Provision Stores ... Appellant
Vs.
Surendra Rangnath Mule & Anr. ... Respondents

Mr. Sachin D. Kadam for the Appellant.
Mr. Vikrant Dere i/b Mr. Sachindra B. Shetye for Respondent No.1.
Mr. H. J. Dedhia APP for Respondent No.2-State.

CORAM : S. M. MODAK, J.

DATED : 12TH JANUARY 2023

P.C:-

1. Heard learned Advocate for respective parties.
2. It was already intimated that Respondent No.1 has expired, earlier the Appellant has sought time to take instructions, on the basis of instructions, learned Advocate for the Appellant does not dispute this fact. In view of this the Appeal will not survive.
3. Respondent No.1-accused was acquitted by the Court of Judicial Magistrate, 1st Class, Nashik, and one of the reason is that the Appellant-firm was not registered. My attention is invited to certificate issued by the Registrar of Firms thereby certifying that one Hukumchand Thole joined on 6/11/1973 and Kalyan Thole joined on 16/11/1978. It is accompanied by statement of particulars required to be furnished under section 44-AB of the Income Tax Act. The status of

the firm is shown as registered firm for the Assessment year 2003-04. Submission is that if observation is made that the amount to be recovered from the Respondents on the basis of cheque be treated as bad debts so that the Appellant can show it in the accounts.

4. It is also submitted that no civil action for recovery has been initiated. On the basis of above background the Appellant is at liberty to show the amount mentioned in the cheque as bad debts in its book of accounts subject to the Income Tax rules.

5. Appeal stands disposed of.

(S. M. MODAK, J.)