IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL (IT) NO. 2229 OF 2018

WITH

INCOME TAX APPEAL (IT) NO. 2243 OF 2018

WITH

INCOME TAX APPEAL (IT) NO. 2247 OF 2018

Pr. Commissioner of Income Tax – 8, Mumbai … Appellant
Versus
Turnkey Electrical Engineers Pvt. Ltd. … Respondent

Mr. Suresh Kumar for Appellant.
None present for Respondent.

CORAM K. R. SHRIRAM &
DR. N. K. GOKHALE, JJ.
DATED: 6th September 2023

P.C. :

1. The Revenue is impugning a common order passed by the Income Tax Appellate Tribunal ("**ITAT**") pronounced on 13th September 2017 for the Assessment Years 2006-2007, 2007-2008, 2008-2009 and 2009-2010. Assessee had filed four Appeals and the Revenue had filed one Appeal for the Assessment Year 2008-2009. The facts under all the Appeals were identical except the difference in the figures of addition on account of bogus purchases.

2. On facts it was found that the Assessing Officer ("**AO**") had not made any independent enquiry before making the disallowance of entire purchases from three parties viz. Bhavika Enterprises, Sahyog Enterprises and Supreme Enterprises. AO had not rejected the books of account or the sales/consumption of assessee. AO disallowed the entire purchases by holding that the assessee failed to produce any satisfactory evidence to show the actual purchase of the material transportation and consumption details.

3. The Commissioner of Income Tax (Appeals) ("**CIT(A)**") while considering the Appeal of assessee examined the bills raised by the three parties mentioned earlier and concluded that the delivery challan does not mention any vehicle number and there was no signature of the receiver. The CIT(A) was not satisfied with the explanation offered by assessee and confirmed the entire disallowance made by AO.

4. The ITAT after considering the submissions made, came to the correct conclusion that even if the transactions are not verifiable, the only taxable amount will be the taxable income component therein and not the amount of entire transactions.

5. Considering the facts of case, the ITAT restricted the addition to 12.5% of the alleged bogus purchases and while doing so relied upon the judgment of Bombay High Court in the case of ***Commissioner of Income Tax – 8 v. Shri. Hariram Bambani***[1]. The High Court had held that the Revenue is not entitled to treat the entire sale consideration to tax but only the profit attributable to the total unrecorded sale consideration alone can be subject to tax.

6. The view taken by the ITAT is a reasonable and possible view. Thus no substantial question of law arises for our consideration.

7. Appeals dismissed.

(DR. N. K. GOKHALE, J.) **(K. R. SHRIRAM, J.)**

GITALAXMI KRISHNA KOTAWADEKAR

Digitally signed by GITALAXMI KRISHNA KOTAWADEKAR
Date: 2023.09.08 19:36:31 +0545

1. Income Tax Appeal (IT) No. 313 of 2013 dated 04.02.2015 (Unreported).