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

INCOME TAX APPEAL NO.128 OF 2024

Pr. Commissioner of Income Tax 17 …Appellant
Versus
Anil Bajaria ...Respondent

Mr. Suresh Kumar for Appellant.

**CORAM : M.S. Sonak &
Advait M. Sethna, JJ.**

DATED : 12 November 2025

P.C.:-

1. Heard Mr. Suresh Kumar, learned counsel for the Appellant.

2. The tax effect in this Appeal is Rs.83,358/-. However, Mr. Suresh Kumar submits that this case falls within the exceptions carved out in paragraph 10(e) of Circular No.17/2020 dated 8 August 2019 since the addition is based on information received from external sources.

3. Without going into the merits of the contention about this Appeal falling within the exceptions, we have heard Mr. Suresh Kumar on merits.

4. Mr. Suresh Kumar urges the admission of this Appeal on the substantial questions of law set out in paragraph 4 of the Appeal Memo. He submits that this is a case where the Assessing Officer had made an addition to the extent of 100% of the bogus purchases. This was reduced by the Commissioner (Appeals) to 12.5% and such reduction was confirmed by the ITAT. He submitted that in such circumstances there was no error in imposing penalty upon the Assessee. The interference with the penalty order was contrary to law and in fact, borders on perversity.

5. We have, perused the record and examined the contention now raised. However, we are satisfied that this Appeal involves no substantial questions of law.

6. Admittedly, estimation of profits at 12.5% and the consequent addition on that basis made by the Commissioner (Appeals) was never challenged by the Revenue before the ITAT. In such circumstances, the imposition of penalty was correctly interfered with.

7. This Court's decision in the case of **Principal Commissioner of Income Tax vs. Colo Colour (P) Ltd.**[1] to a certain extent supports the view taken by the first Appellate Authority and the ITAT.

8. However, Mr. Suresh Kumar sought to distinguish the above decision by pointing out that in said case, the AO had made an addition of only 12.5% and in the present case, the AO had made an addition of 100%. Based on this distinction, we cannot refuse to follow the decision of the co-ordinate

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Bench. As noted above, even in this case, the reduction, or rather the estimation, of profits by 12.5% was never questioned by the Revenue before the ITAT.

9. Therefore, for all the above reasons, we are satisfied that this Appeal involves no substantial questions of law.

10. The Appeal is therefore dismissed without any order for costs.

(Advait M. Sethna, J) **(M.S. Sonak, J.)**