Amol

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 1029 OF 2024

Pr Commissioner of Income Tax 6 Mumbai …Appellant

Versus

Torane Ispat Udyog Pvt. Ltd.
AY 2010 11 ITA 2385 MUM 2023 …Respondent

Mr. Akhileshwar Sharma, *with Ms. Shradha Worlikar, for the Appellant.*

CORAM M.S. Sonak &
Advait M. Sethna, JJ.
DATED: 13 November 2025

PC:-

1. Heard Mr Sharma for the Appellant.

2. Mr Sharma submits that, though the tax effect is less than Rs. 2 Crores, the matter concerns bogus purchases and would therefore be covered by the exceptions.

3. Without going into the issue of whether the Appeal is covered under the exceptions, we have heard Mr Sharma on the merits of the Appeal.

4. The Income Tax Appellate Tribunal (ITAT) has interfered with the order imposing a penalty on the ground that the show cause notice was vague and ambiguous, inasmuch as the necessary particulars were provided in a cyclostyled format and further, the irrelevant particulars were not even struck out. As such, a defective and ambiguous notice was made the foundation of the penalty order.

5. The Full Bench of this Court in the case of **Mohd. Farhan A. Shaikh Vs. Deputy Commissioner of Income Tax & Anr**[1], in almost identical circumstances, has held that no penalty could have been imposed upon the assessee based upon such a defective show cause notice.

6. Mr Sharma, however, refers to the decision in the case of **Veena Estate (P.) Ltd. Vs. Commissioner of Income-tax**[2] to submit that the Division Bench takes a contrary view. Therefore, he submitted that we should consider setting aside the ITAT's order for having relied upon the Full Bench in the case of *Mohd. Farhan A. Shaikh* (supra) and remand the matter to the ITAT to consider the decision in the case of *Veena Estate (P.) Ltd.* (supra).

7. At the outset, it is difficult to accept Mr Sharma's contention that the Division Bench has taken a view contrary to the decision of the Full Bench. The Division Bench only held that an assessee, who never raised any ground about the ambiguity of the notice before the Assessing Officer, Appellate Authority and ITAT, could not be allowed to raise such a ground for the first time in an Appeal under Section 260A of the Income Tax Act. Such facts do not obtain in the present Appeal, and therefore, based upon the decision in *Veena Estate (P.) Ltd.* (supra), we cannot fault the ITAT for taking the view that aligns with that of the Full Bench in the case of *Mohd. Farhan A. Shaikh* (supra).

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1 (2021) 125 taxmann.com 253

2 (2024) 158 taxmann.com 341 (Bombay)

8. Incidentally, Mr Sharma had raised an identical contention in the case of **Pr. Commissioner of Income Tax-2 Thane Vs Pacific Organics Pvt. Ltd** However, such contention, based upon the interplay between the decisions of the Full Bench in the case of *Mohd. Farhan A. Shaikh* (supra) and of the Division Bench in the case of *Veena Estate (P.) Ltd.* (supra) was rejected. Therefore, in the present case as well, following the decision in *Pacific Organics Pvt. Ltd.* (supra), we reject Mr Sharma's identical contention now raised in this Appeal.

9. In the above circumstances, the question proposed in this Appeal can hardly be regarded as any substantial question of law warranting the admission of this Appeal.

10. Therefore, we decline to admit this Appeal and dismiss the same without any costs order.

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