Sayali

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

INCOME TAX APPEAL NO. 756 OF 2025

SAYALI DEEPAK UPASANI

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Date: 2025.11.27 10:02:53 +0530

Pr. Commissioner of Income Tax 2 Pune ...Appellant

Versus

Kubix Realties LLP ...Respondent

Mr Vikas T. Khanchandani, for Appellant
Mr Mihir Naniwadekar with Mr. Abhishek Khandewal , for Respondent.

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

DATED: 26 NOVEMBER 2025

PC:-

1. Heard the learned Counsel for the parties.

2. The tax effect in this case is Rs.43,75,800/- i.e much less than the ceiling of Rs.2 Crores. However, Mr. Khanchandani relies on the exceptions in the CBDT Circular.

3. Without going into the issue of whether the exceptions apply, we have heard the learned Counsel on merits and we are satisfied that this Appeal involves no substantial question of law.

4. The re-assessment in this case was beyond four years from the end of the relevant assessment year. Therefore, in terms of Section 151 (1) of the IT Act, sanction was necessary from the Principal Commissioner, Chief Commissioner or the Commissioner of Income Tax. Admittedly, the sanction was obtained only from the Joint Commissioner. The ITAT relied upon several decisions, including decisions of this Court, and held that such a defect was incurable and vitiates the notice under Section 148 of the Act. The discussion on the above issue is in paragraph Nos. 9 to 12 of the ITAT's order, wherein the ITAT has relied on several decisions of this Court, including that decision **Ghanshyam K. Khabrani V. Assistant Commissioner of Income tax Circle- 1**[1] and the decision of Rajastan High Court in the case of **Dhadda Exports V. Income Tax Officer, Ward- 1(1), Jaipur**[2] (Rajastan).

5. Accordingly, we satisfied that this Appeal does not involve any substantial question of law.

6. The Appeal is dismissed without any costs order.

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

[1] (2012) 20 taxmann.com 716 (Bom)

[2] (2015) 58 taxmann.com 176