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

INCOME TAX APPEAL NO. 776 OF 2025
WITH
INCOME TAX APPEAL NO. 777 OF 2025
WITH
INCOME TAX APPEAL NO. 778 OF 2025
WITH
INCOME TAX APPEAL NO. 779 OF 2025
WITH
INCOME TAX APPEAL NO. 780 OF 2025
WITH
INCOME TAX APPEAL NO. 785 OF 2025
WITH
INCOME TAX APPEAL NO. 786 OF 2025
WITH
INCOME TAX APPEAL NO. 799 OF 2025
WITH
INCOME TAX APPEAL NO. 800 OF 2025
WITH
INCOME TAX APPEAL NO. 801 OF 2025
WITH
INCOME TAX APPEAL NO. 802 OF 2025
WITH
INCOME TAX APPEAL NO. 809 OF 2025
WITH
INCOME TAX APPEAL NO. 811 OF 2025
WITH
INCOME TAX APPEAL NO. 812 OF 2025
WITH
INCOME TAX APPEAL NO. 813 OF 2025
WITH
INCOME TAX APPEAL NO. 814 OF 2025
AND
INTERIM APPLICATION (L.) NO. 9744 OF 2025
WITH
INTERIM APPLICATION (L.) NO. 9770 OF 2025
WITH
INTERIM APPLICATION (L.) NO. 9913 OF 2025

WITH
INTERIM APPLICATION (L.) NO. 9914 OF 2025
WITH
INTERIM APPLICATION (L.) NO. 9918 OF 2025
WITH
INTERIM APPLICATION (L.) NO. 9931 OF 2025
WITH
INTERIM APPLICATION (L.) NO. 9982 OF 2025
WITH
INTERIM APPLICATION (L.) NO. 9984 OF 2025

Skyway Infraprojects Pvt. Ltd. .. Petitioner

Versus

Dy. / Asst. Commissioner of Income
Tax Central Circle 5(1), Mumbai .. Respondent

Mr. J. D. Mistri, Senior Advocate *a/w Sham Walve a/w Sameer Dalal a/w Bhavik Chheda, Advocates for the Petitioner.*

Mrs. Swapna Gokhale*, Advocate for the Respondent.*

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE: JULY 25, 2025

P. C.

1. The above 16 Income Tax Appeals are filed by the Appellant – assessee being aggrieved by the order dated 28th February 2023 passed by the Income Tax Appellate Tribunal, "G" Bench Mumbai (for short ***"ITAT"***) for 8 Assessment Years (for short ***"A.Y."***) i.e. 2013-14 to 2020-21, disposing of

income tax appeals and cross objections, filed before the ITAT by both the Revenue and the Appellant-assessee. The Appellant has also filed 8 Interim Applications for Stay relating to each of the eight A.Ys. in question.

2. There are several common issues involved in all the Appeals and hence Income Tax Appeal No. 776 of 2025, pertaining to A.Y. 2013-14, is taken as the lead matter. Wherever other issues arise, they have been indicated at the relevant points in this submission.

3. The brief facts of the case are that an action under Section 132 of the Income Tax Act, 1961 (for short ***"Act"***) was undertaken by the Revenue in the case of the Appellant on 6th November 2019. Subsequently, proceedings under Section 153A of the Act were initiated which culminated in an Assessment Order dated 30th September 2021. It is apparent from the order that there was no Document Identification Number (for short ***"DIN"***) on the body of the Assessment Order, nor was there any note/explanation as required by law for this omission. However, the Department issued an Intimation Letter dated 4th October 2021 indicating the DIN of the Assessment Order. Thereafter, the Department issued another Intimation Letter dated 6th October 2021 stating that the DIN previously communicated had been accounted for by the CPC with a different DIN (it is not known what exactly is intended to be communicated by this phrase). This apart, it is

the case of the Appellant that the Assessment Order in question could not be found/downloaded from the Portal along with the aforementioned emails, but was served on the Appellant via Post on 7th October 2021.

4. In the Assessment Order, the Assessing Officer made additions due to disallowance of alleged bogus purchases, and alleged unexplained cash credit [under Section 68] on account of unsecured loans. Aggrieved by the Assessment Order, the Appellant filed an appeal before the Commissioner of Income Tax Appeals [for short ***"CIT(A)"***]. The CIT(A) passed a common order dated 27th July 2022 for the assessment years abovementioned, deleting the disallowance of bogus purchases relating to some parties and restricting the disallowance of bogus purchases to 5% for remaining parties. As regards the addition under Section 68 was concerned, the CIT(A) deleted the whole addition.

5. Against the CIT(A) order, the Revenue filed an appeal before the Ld. ITAT and the Appellant-assessee also filed cross objections. The Appellant argued that the assessment under Section 153A of the Act was time barred and that even otherwise, there cannot be any additions made in absence of any incriminating material unearthed during the search. The Appellant filed Written Submissions in support of its contentions and attached a few screenshots of the Portal to support its contention that no

order was uploaded even on 1st October 2021. Further, the Appellant was directed by the ITAT to file a 'synopsis' which the Appellant did on 27th February 2023. The synopsis *inter alia* records the arguments relating to the consequence of no DIN on the Assessment Order, cites legal precedent of the Delhi High Court in support thereof, and sets out contentions on several other legal grounds. Ultimately, the Ld. ITAT passed the common impugned order dated 28th February 2023 deciding the appeals and cross objections for all assessment years.

6. In this factual backdrop, the Appellant claims that the Ld. ITAT has not properly (and in accordance with law), dealt with the issue raised by the Appellant, that the Assessment Order was not uploaded on the Portal before the expiry of limitation. It has merely recorded that the Appellant has not brought on record any evidence to show that the Assessment Order was received beyond a reasonable period from the expiry of limitation. It is stated that the Ld. ITAT in its order has not dealt with the crucial and conclusive evidence of screenshots attached by the Appellant to its Written Submissions. Further, according to the Appellant, there is no discussion on the issue of non-bearing of a DIN on the Assessment Order.

7. This apart, according to the Appellant, the Ld. ITAT reversed the findings of the CIT(A) relating to bogus purchases despite the fact that the Ld. ITAT in the case of Hitech Engineers, a group concern of the Appellant, under identical circumstances, had deleted the addition on alleged bogus purchases. In other words, in the present case, the Ld. ITAT took a diametrically opposite view to the one taken by it in the case of Hitech Engineers, and whih was a group concern of the Appellant.

8. Insofar as the addition under Section 68 of the Act is concerned, the Ld. ITAT reversed the findings of the CIT(A) and restored the additions made by the Assessing Officer in case of some parties and restored the issue back to the file of Assessing Officer for verification relating to the remaining parties. Further, the Appellant claims that the ITAT has not specifically dealt with the cross objections raised by the Appellant that no addition can be made on account of unsecured loans which were duly repaid during the year and subsequent years.

9. Be that as it may, before filing the above Appeals, being aggrieved by the said order, the Appellant filed a Miscellaneous Application under Section 254(2) of the Act on 30th March 2023 *inter alia* stating that its arguments have not been considered as set out in the synopsis

of hearing which also contained arguments relating to the issue of limitation and DIN. The Ld. ITAT passed an order dated 4th April 2024 rejecting the Miscellaneous Application filed by the Appellant *inter alia* stating that the ITAT had already dealt with all the issues in its order dated 28th February 2023.

10. Accordingly, the Appellant herein, for different Assessment-Years preferred eight Writ Petitions challenging the aforesaid orders rejecting the Miscellaneous Application. This Court disposed of the said Writ Petitions by a common order dated 10th March 2025 granting leave to withdraw the Writ Petitions with liberty to institute the present appeals against the main order of the ITAT dated 28th February 2023, keeping open all contentions of the parties. In consequence thereof, the present appeals came to be instituted.

11. In the case at hand, the following issues fall for consideration. Firstly, it is the Appellant's case that arguments regarding the issue of DIN was not dealt with by the Ld. ITAT in its order dated 28th February 2023 and that the Assessment Order is unsustainable as it is contrary to the CBDT's Circular No. 19 of 2019 dated 14th August 2019. Secondly, it is argued that the ITAT has incorrectly recorded that the Appellant had not brought on record

any evidence that the Assessment Order was received beyond the expiry of limitation, despite the fact that the Appellant had attached screenshots of the Income Tax Portal along with the Written Submissions showing that the Assessment Order was not uploaded even on 1st October 2021. Thirdly, it is argued that the Appellant will show that the Ld. ITAT has not considered and passed orders on the argument regarding the effect of repayment of loans during the assessment year and subsequent assessment years and taken a conflicting view in Appellant's case as compared to the case of Appellant's group concern, namely Hitech Engineers, with respect to alleged bogus purchases as well as repayment of unsecured loans, under identical circumstances. In fact, one of the members of the Ld. ITAT was common in both cases, and yet the ITAT has taken a conflicting view.

12. The issue regarding DIN is common and applies to all appeals except ITXA No. 811 of 2025 and ITXA No. 777 of 2025 pertaining to A.Y. 2019 – 20 wherein the DIN is quoted on the body of the Assessment Order. Further, in ITXA No. 799 of 2025 and ITXA No. 778 of 2025 pertaining to A.Y. 2020 – 21 there is a reference made to the CBDT's Circular No. 19 of 2019 however the Appellant's contention is that even in these two assessment years, the Revenue has not followed the binding procedure set out in the

CBDT circular in accordance with law. The issue of limitation is common and applies to all the appeals.

13. Further, insofar as issues on merits are concerned, the issue of bogus purchases is common to all appeals. The issue of unsecured loans is common to all appeals except ITXA No. 811 of 2025, ITXA No. 777 of 2025 pertaining to A.Y. 2019 – 20 and ITXA No. 799 of 2025, ITXA No. 778 of 2025 pertaining to A.Y. 2020 – 21.

14. It is urged by the Revenue that although there is no DIN appearing on the assessment order, they have by some other means, complied with the CBDT's Circular No. 19 of 2019 relating to DIN and that they may be permitted to bring on record the facts/procedure adopted by them to show that the said Circular was followed. Further, it is also their case that they will demonstrate that the Impugned order is proper and all issues have been duly considered by Ld. ITAT.

15. However, without going into the merits of the arguments on both sides, it is clear beyond doubt that the issue of DIN has not been considered or dealt with at all in the Impugned Orders disposing of the appeals. It is expressly clarified that the cause/reason for the same have not been gone into. This is a matter which goes to validity of the assessment order, and the root of the matter, and hence ought to be permitted to be urged. Whatever

may be the contentions on both sides, the deficiencies if any, in putting the same forward before the ITAT, and their merits, the contention ought to be considered and dealt with when disposing off the appeal. Further, although all other issues ought to be similarly considered and dealt with, the same may not be necessary depending on the decision on the DIN issue. In view of the above, the common order dated 28th February 2023 and the subsequent order dated 4th April 2024 passed by the Ld. ITAT are quashed and set aside. As mentioned above, both of these orders are common for all A.Ys. It is clarified that nothing herein expresses any view on the merits of the matters.

16. The Ld. ITAT is directed to decide all the appeals afresh, and considering that the ITAT is the last fact finding authority, parties are at liberty to adduce all and any additional materials, grounds, contentions etc., and produce the same before ITAT in support of their contentions in their respective appeals or cross objections. We request the Ld. ITAT to pass orders on the appeals/cross objections as expeditiously as possible.

17. In light of the above, all the Appeals stand disposed of in the above terms. All the Interim Applications filed therein are disposed of as infructuous. There shall be no order as to costs.

18. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.] **[B. P. COLABAWALLA, J.]**

Aswale