GAURI AMIT GAEKWAD
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Gauri Gaekwad

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 213 OF 2019

Principal Commissioner of Income Tax, Central - 4 …Appellant
Versus
Bermaco Industries Limited …Respondent

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

CORAM: SUMAN SHYAM &
GAUTAM A. ANKHAD, JJ.

DATED: 15th OCTOBER 2026.

PC:-

1. Assailing the judgment and order dated 10th November, 2017 passed by the learned Income Tax Appellate Tribunal, Mumbai in Income Tax Appeal No.2825/Mum/2016 for the Assessment Year 2009-2010, the Revenue has approached this Court by filing the present Appeal under Section 260A of the Income Tax Act, 1961, by projecting the following substantial questions of law:

> (a) Whether on the facts and in the circumstances of the case and in law, the ITAT was justified in deleting the penalty levied u/s 271(1)(c) of the Act, relying only on the decision of Bombay High Court in the case of Samson Perincherry, without appreciating the fact that the provisions of Section 271 do not prescribe any statutory notice at all?

(b) Whether on the facts and in the circumstances of the case and in law the ITAT was justified in deleting the penalty levied u/s 271(1)(c) of the Act, without appreciating the fact that the Hon'ble Supreme Court, in the case of K P Madhusudan vs CIT has held that no express invocation is necessary as per provisions of Section 271 of the Act?

(c) Whether on the facts and in the circumstances of the case and in law the ITAT was justified in deleting the penalty levied u/s 271(1)(c) of the Act, without appreciating the fact that the Hon'ble Bombay high Court, in the case of Kaushalya & Others has held that a mistake in the notice would not invalidate penalty proceedings and it is sufficient if the assessee was aware of the charges he had to meet and was given opportunity of being heard?

2. However, when this Appeal was taken up for admission hearing, Mr. Suresh Kumar, learned Departmental Counsel, has admitted, in his usual fairness, that the aforesaid questions proposed by the Department are now squarely covered by the Full Bench decision of this Court in the matter of ***Mohd. Farhan A. Shaikh v/s. Deputy Commissioner of Income Tax, Central Circle 1, Belgau***[1].

3. On a careful examination of the aforesaid decision, we do not find any ground to disagree with the above submission of the learned Departmental Counsel. If that be so, the aforesaid

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1. [2021] 125 taxmann.com 253 (Bombay)

substantial questions of law would not survive for consideration by this Court in the present Appeal.

4. This Appeal is accordingly disposed of.

(GAUTAM A. ANKHAD, J.) (SUMAN SHYAM, J.)