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. 198 OF 2019

Principal Commissioner of Income Tax, Central - 4 …Appellant

Versus

Sopariwala Exports …Respondent

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

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

DATED: 15th OCTOBER 2026.

PC:-

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

2. This Appeal under Section 260A of the Income Tax Act, 1961 has been preferred by the Revenue assailing the judgment and order dated 17th January, 2018 passed by the Income Tax Appellate Tribunal, Mumbai, in Income Tax Appeal No.3037/Mum/2014 for the Assessment Year 2005-2006, by projecting the following substantial questions of law:

> (1) Whether on the facts and in the circumstances of the case and in law, the ITAT has erred in allowing the commission of Rs.5,02,83,793/- paid to overseas agent M/s. Khadlaj Perfumes LLC, for the A.Y. 2005-06 without appreciating the fact that the assessee was unable to prove the need for commission @25% paid to M/s. Khadlaj Perfumes LLC, whereas commission

incurred with other parties was @0.5% to 5.85%?

(2) Whether on the facts and in the circumstances of the case and in law, the ITAT has erred in deleting the addition made in respect of loan advanced to associated enterprises, M/s. Mellow Commodities SDN BHD at arm's length price, without appreciating the fact that section 92 of the I.T. Act is clearly applicable to the transaction made with the associated entity?

(3) Whether on the facts and in the circumstances of the case and in law, the ITAT has erred in allowing the appeal of the assessee placing reliance on the decision of the jurisdiction Hon'ble ITAT, Mumbai Bench (Special Bench) in the case of M/s. All Cargo Global Logistics Ltd (137 ITD 287), whereas the decision in All Cargo Global Logistics Ltd has been further contested in appeal and the decision of the Hon'ble Supreme Court is still pending for adjudication?

(4) Whether on the facts and circumstances of the case and in law, the Hon'ble Tribunal was justified in holding that the scope of section 153A is limited to assessing only search related income, thereby denying revenue, the opportunity of taxing other escaped incomes that come to the notice of the Assessing Officer?

3. However, when this Appeal was taken up for admission hearing, Mr. Suresh Kumar, learned Departmental Counsel, has submitted, in his usual fairness, that these substantial questions of law are now covered by the decision of the Hon'ble Supreme Court rendered in the matter of ***Principal Commissioner of Income Tax, Central – 3 v/s. Abhisar Buildwell (P.) Ltd***[1].

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1. [2023] 149 taxmann.com 399 (SC)

4. On a careful reading of the decision rendered in the case of ***Abhisar Buildwell (P.) Ltd.*** (supra), we find ourselves in agreement with the above submission of the learned Departmental Counsel.

5. In view of the above, the aforesaid substantial questions of law would not survive for consideration by this Court in the present Appeal.

6. **This Appeal is accordingly disposed of**.

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