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

INCOME TAX APPEAL NO. 563 OF 2024
AND
INCOME TAX APPEAL NO. 575 OF 2024

Principal Commissioner of Income Tax,
Central-3, Mumbai ...Appellant
Vs.
Dilip B. Jiwarajka ...Respondent

Ms. Swapna Gokhale for the Appellant.
Mr. Rajendra for the Respondent.

CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.
DATE: 17 APRIL 2026.

P.C.

1. These appeals under Section 260A of the Income Tax Act are filed by the Revenue, assailing the judgment and order dated 29 November 2022 rendered by the Income Tax Appellate Tribunal, "D" Bench, Mumbai. The assessment years in question in the present appeals are A.Y. 2012-13 and A.Y. 2014-15.

2. The following questions of law have been raised for consideration of the Court:-

> "A) Whether, on the facts and in the circumstances of the case and in law, the Hon'ble ITAT erred in stating that there is no incriminating material ignoring the fact that the information collected during the course of search resulting in identification of certain entities which have indulged in dubious transactions and statements of persons involved in such transactions constitutes incriminating material as it was found during the course of search?"
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> B. Whether, on the facts and in the circumstances of the case and in law, the Hon'ble ITAT erred in ignoring the decision of Hon'ble Supreme Court in the case of P.R. Metrani v CIT(2006) 287 ITR 209 wherein it was explained that the books of accounts, documents, money,

> bullion, jewellery or other valuable article or thing and any statements recorded of the persons searched may be used as evidence for any proceedings under the Act thereby such evidence constitutes as incriminating material."

3. We find from the record that the impugned order is a common order pertaining to Assessment Years 2012-13, 2013-14, 2014-15, and 2015-16. At the outset, learned counsel for the parties are *ad idem* that a co-ordinate Bench of this Court had dealt with the case of the assessee in Income Tax Appeal No. 646 of 2023, filed by the Revenue, assailing the very same order. By the said order, the co-ordinate Bench dismissed the Revenue's appeal in the following terms :-

> "1. The above Income Tax Appeal is filed by the Revenue challenging the order dated 29th November 2022, passed by the Income Tax Appellate Tribunal (for short "ITAT") in Appeal No. 2326/Mum/2021. The Assessment Year in question is A.Y. 2013-2014. According to the Revenue, the above Appeal gives rise to the following two substantial questions of law:-
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> > "A. "Whether, on the facts and in the circumstances of the case and in law, the Hon'ble ITAT erred in stating that there is no incriminating material ignoring the fact that the information collected during the course of search resulting in identification of certain entities which have indulged in dubious transactions and statements of persons involved in such transactions constitutes incriminating material as it was found during the course of search?"
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> > B. Whether, on the facts and in the circumstances of the case and in law, the Hon'ble ITAT erred in ignoring the decision of Hon'ble Supreme Court in the case of P.R. Metrani v CIT(2006) 287 ITR 209 wherein it was explained that the books of accounts, documents, money, bullion, jewellery or other valuable article or thing and any statements recorded of the persons searched may be used as evidence for any proceedings under the Act thereby such evidence constitutes as incriminating material."
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> 2. In the facts of the present case, the Assessing Officer has made a huge addition to the income of the Respondent. This was challenged before the CIT (Appeals), who deleted the addition, and the same has been upheld by the ITAT.
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> 3. Interestingly, the Respondent Assessee, as well as his brother Mr. Surendra B. Jiwarjka, were subjected to search and the Assessment Order in both these cases has been passed under Section 153A of the Income Tax Act, 1961.

> 4. The present Respondent's brother, namely Surendra B. Jiwarjka, being aggrieved by the Assessment Order passed under Section 153A, approached CIT (Appeals). The CIT (Appeals) decided the matter in favour of the Respondent's brother. Being aggrieved by this, the Department preferred an Appeal to the ITAT. The ITAT also held in favour of the Respondent's brother. Not being satisfied by the order passed by the ITAT, the Department then approached this Court by filing Income Tax Appeal No. 211 of 2024. This Court dismissed the aforesaid Appeal (filed in the case of the brother of the Respondent) on the ground that it raised no substantial question of law. In fact, this Court held that the Commissioner (Appeals) and the ITAT have, on a concurrent review of the factual material on record, held in favour of the Assessee and against the Revenue. The findings of the fact have been concurrently recorded, and they are not based on "no evidence or on any relevant evidence having been excluded from consideration". Hence, this Court in the case of Surendra B. Jiwarjka (the brother of the Respondent) held that no substantial question of law arises for consideration.
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> 5. It is an admitted position before us that the facts in the present case are identical to those in the case of Surendra B. Jiwarjka, save and except for the amount of addition being made.
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> 6. Once this is the case, for the reasons stated by this Court in its decision dated 12th November 2025 in Income Tax Appeal No. 211 of 2024, we also hold that the present Appeal does not give rise to any substantial question of law, and it is accordingly dismissed. However, there shall be no order as to costs.
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> 7. 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."

4. The issue in the present appeals being identical, we are of the clear opinion that these appeals ought to be disposed of in terms of the order dated 15 April 2026 (supra), passed by the co-ordinate Bench of this Court. Accordingly, the present appeals also stand dismissed in terms of the said order as they do not give rise to any substantial question of law. No costs.

(AARTI SATHE, J.) **(G. S. KULKARNI, J.)**