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

INCOME TAX APPEAL NO.2077 OF 2018

Principal Commissioner of Income Tax-24 .. Appellant
Versus
Rupesh Ramesh Doshi .. Respondent

Ms. Mamta Omle for the appellant.

CORAM : M. S. Sonak &
Jitendra Jain, JJ.
DATE : 22 January 2025

P.C.:-

1. Heard learned counsel for the appellant.

2. This appeal is admitted on the following substantial questions of law proposed in the appeal memo and also additional question which we now propose to formulate :-

SUBSTANTIAL QUESTIONS OF LAW

"(i) Whether the Tribunal after accepting that this a case of bogus purchases, could have proceeded to determine profit rate without confirming the disallowance of purchases, without considering the provisions of Section 69C of the Income Tax Act, 1961 and without considering the decision of the Gujarat High Court in the case of ***N.K. Industries Ltd. Vs. Deputy Commissioner of Income Tax,*** (2016) 72 taxmann.com 289 since the Special Leave Petition against the said decision was dismissed by the Hon'ble Supreme Court in case of ***N. K. Proteins Ltd. Vs. Deputy Commissioner of Income Tax,*** on 16 January 2017, (2017) 84 taxmann.com 195 (SC) ?

(ii) On the facts and circumstances of the case and in law, the ITAT has erred in restricting the disallowance to profit margin on unproven purchases without considering the position of law established by the Hon'ble Apex Court in the case of N. K. Proteins Ltd. that 100 % disallowances on bogus purchases is upheld ?

3. The appellant will have to serve the respondent and file affidavit of service within two weeks from today.

4. Tagg this appeal along with Income Tax Appeal No.1823 of 2018.

5. Place this appeal for final hearing on 20 February 2025 at 2.30 p.m.

(Jitendra Jain, J.) **(M. S. Sonak, J.)**