Chaitanya

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

INCOME TAX APPEAL NO. 2569 OF 2018
WITH
INCOME TAX APPEAL NO. 2418 OF 2018
WITH
INCOME TAX APPEAL NO. 2644 OF 2018

Principal Commissioner of Income Tax-29 … Appellant

Versus

Mr. Tejas N. Shah … Respondent

Mr Suresh Kumar, for Appellant.
Ms Neha Paranjpe, for Respondent.

CORAM : M.S. Sonak &
Jitendra Jain, JJ.

DATED : 03 APRIL 2025

PC:-

1. These Appeals are not on board, but at the request of Mr. Suresh Kumar, they have taken on board.

2. Today, we have admitted Assessee's Appeal bearing Income Tax Nos. 2487 of 2018, 2452 of 2018 and 92 of 2019 and tagged those Appeals with these Appeals.

3. Accordingly, we admit these Appeals on the following 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. Protiens 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. Protiens Ltd, that 100 % disallowances on bogus purchases is upheld ?"

4. Ms. Paranjpe, waives service on behalf of the Respondent-Assessee.

5. Mr. Suresh Kumar states that copies of the Appeal memo and paper book will be provided to Ms. Paranjpe within two weeks.

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