

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.1930 OF 2011

Commissioner of Income Tax - 13 .. Appellant
Vs.
Shri S. Ganesh .. Respondent

Mrs.S.V.Bharucha for the Appellant.

Mr.P.J. Pardiwalla, Sr. Counsel with Ms.Beena Pillai i/b Niraj Punmiya for the Respondent.

**CORAM : S.C.DHARMADHIKARI &
G.S.KULKARNI, JJ.**

DATED : 18th MARCH, 2014.

P.C. :

1 Having heard Ms.Bharucha, learned counsel appearing on behalf of the Revenue and perusing the order passed by the Income Tax Appellate Tribunal, we are of the opinion that the Tribunal did not commit any error of law or perversity in partly allowing the appeal of the respondent assessee.

2 The assessee in regard to grounds 1 to 7 challenged the order of the Commissioner of Income Tax in confirming the addition of Rs.47,37,000/- made by Assessing Officer on account of non-conciliation of professional receipts with TDS certificates. Insofar as that aspect is concerned, the Tribunal considered this submission of both sides and found that the assessee was engaged as an Advocate to argue the

matters by what is popularly known as Advocates on record or instructing Advocates method, meaning thereby the client does not engage the assessee directly but a professional or the Advocate engaged by the client requests the assessee to argue the case. The brief is then taken as the counsel brief. That being the practice, the assessee gave an explanation that the break-up as desired cannot be given and with regard to all payments. It is pointed out that at times, assessee receives fees directly from the clients or from the instructing Advocates or Chartered Accountants if such professionals have collected the amounts from the clients.

3 Under these circumstances, the break-up as desired cannot be placed on record. An explanation which has been given by the assessee and accepted in the past has been now accepted by the Tribunal once again. Since it is accepted for the Assessment Year 2006-07, in the peculiar facts, in relation to the present assessee, we are of the view that this Appeal does not deserve to be entertained. It does not give rise to any substantial question of law.

4 Appeal is accordingly dismissed.

(G.S.KULKARNI, J.)

(S.C.DHARMADHIKARI, J.)