IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

TAX APPEAL NO. 1004 of 2017

TO

TAX APPEAL NO. 1006 of 2017

==

PRINCIPAL COMMISSIONER OF INCOME TAX, CENTRAL, AHMEDABAD....Appellant(s)

Versus

VIKAS A. SHAH....Opponent(s)

==

Appearance:

MRS MAUNA M BHATT, ADVOCATE for the Appellant(s) No. 1

==

CORAM: **HONOURABLE MR.JUSTICE AKIL KURESHI**
and
HONOURABLE MR.JUSTICE B.N. KARIA

Date : 14/02/2018

ORAL ORDER
(PER : HONOURABLE MR.JUSTICE AKIL KURESHI)

1. These appeals arise out of a common judgment of Income Tax Appellate Tribunal dated 21.3.3017. We may consider Tax Appeal No.1004/2017 as the lead appeal in which the Revenue has proposed the following questions :

   "Whether on the facts and in the circumstances of the case, the Hon'ble Tribunal was right in law and on facts to apply gross profit rate of 8% on construction activities and the principle of peak balance on undisclosed receipts and payments in the case of an assessee who is engaged in trading of land, development and construction activities?"

2. Having heard the learned advocate for the appellant and perused the documents on record, we notice that once the Assessing Officer and CIT(Appeals) made sizeable additions, the Tribunal gave substantial respite to the assessee on further appeal. The additions were split by the Tribunal in three parts. One was the cash transactions concerning the assessee's construction business. Second was the rent receipts and third was the assessee's rotation of money for advances on interest. With respect to the first aspect, the Tribunal noted that not the entire receipt but the profit element suggested at the rate of 8% Gross Profit ratio should be taxed. Regarding the second head of Rs.11.86 lacs, the Tribunal confirmed the additions in entirety in absence of any contrary evidence. Regarding the third element, the Tribunal was of the opinion that only the peak credit and not the entire aggregate of the receipts could be taxed. This the Tribunal held by referring to the judgment of Division Bench of this Court in case of **CIT v. Tirupati Construction Co.** reported in (2015) 55 taxmann.com 308 (Guj).

3. We see no error in the view of the Tribunal so as to give rise to substantial questions of law. Essentially, all the issues are based on appreciation of materials on record. Tribunal having appreciated such facts, no question of law arises. Tax Appeals are dismissed.

(AKIL KURESHI, J.)

(B.N. KARIA, J.)

raghu