

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

INCOME TAX APPEAL NO. 39 OF 2019

PR Commissioner of Income Tax-15

...Appellant

Versus

Savair Energy Ltd.

...Respondent

WITH

ITXA/39/2019,	ITXA/120/2019,	ITXA/146/2019,
ITXA/308/2019,	ITXA/376/2019,	ITXA/460/2019,
ITXA/461/2019,	ITXA/682/2019,	ITXA/724/2019,
ITXA/742/2019,	ITXA/822/2019,	ITXA/928/2019,
ITXA/948/2019,	ITXA/951/2019,	ITXA/1000/2019,
ITXA/1065/2019,	ITXA/1082/2019,	ITXA/1124/2019,
ITXA/1127/2019,	ITXA/1137/2019,	ITXA/1138/2019,
ITXA/1141/2019,	ITXA/1143/2019,	ITXA/1144/2019,
ITXA/1479/2019,	ITXA/1480/2019,	ITXA/1487/2019,
ITXA/1496/2019,	ITXA/1497/2019,	ITXA/1498/2019,
ITXA/1926/2019,	ITXA/1769/2019,	ITXA/1772/2019,
ITXA/1779/2019,	ITXA/1797/2019,	ITXA/1833/2019,
ITXA/2491/2019,	ITXA/2061/2019,	ITXA/2067/2019,
ITXA/2072/2019,	ITXA/2102/2019,	ITXA/2236/2019,
ITXA/2233/2019,	ITXA/2326/2019,	ITXA/2467/2019,
ITXA/3176/2019,	ITXA/2501/2019,	ITXA/2527/2019,
ITXA/2530/2019,	ITXA/2600/2019,	ITXA/2605/2019,
ITXA/2606/2019,	ITXA/2608/2019,	ITXA/2609/2019,
ITXA/2623/2019,	ITXA/2757/2019,	ITXA/2766/2019,
ITXA/2786/2019,	ITXA/2820/2019,	ITXA/2833/2019,
ITXA/2848/2019,	ITXA/2874/2019,	ITXA/2880/2019,
ITXA/2881/2019,	ITXA/2882/2019,	ITXA/2887/2019,
ITXA/1328/2019,	ITXA/1327/2019,	ITXA/1398/2019,

Mr Suresh Kumar a/w Ms Mohini Chougule and Mr Ravi Rattesar for the Appellant.

Mr Dharan V. Gandhi, Mr Ajay R Singh, Mr Akshay A Pawar, Ms Aasifa Khan a/w Mr Atul K Jasani, Mr Rahul Hakani, Ms Neelam Jadhav, Ms Rutuja N Pawar a/w Ms Hetal Laghave, Mr Rajesh Poojary i/b. Mint & Confreres for the Respondent. Mr Raturaj H Gurjar, Mr R S Padvekar a/w Mr Tanzil Padvekar and Ms Tejal P Kharkar i/b. Mint & Confreres Mr. Anand K Kanse i/b. Neha Anchila, Mr Devendra Jain a/w Ms Radha Halbe, Mr Jitendra Singh a/w Ms Shivali Mhatre for the Respondent.

**CORAM M.S. Sonak &
Jitendra Jain, JJ.**
DATED: 2 April 2025

PC:-

1. Heard Mr. Suresh Kumar for the appellant.
2. Mr. Suresh Kumar submits that similar appeals, including Income Tax Appeal No.1300 of 2019 have been admitted by this Court. He points out that even though the tax effect is appears to be less than Rs. 2 Crore, these appeals falls within the exception.
3. Accordingly, we admit these appeals on the following substantial questions of law.

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. Tag these appeals with ITXA No.1300 of 2019 and connected matters.

(Jitendra Jain, J)

(M.S. Sonak, J)