Chaitanya

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

INCOME TAX APPEAL NO. 1017 OF 2019

Pr. Commissioner Of Income Tax-27	… Appellant
Versus	
Alpa Paresh Parekh	… Respondent

Mr Arjun Gupta, for Appellant.

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

DATED : 23 APRIL 2025

PC:-

1. Heard Mr Gupta, learned counsel for the Appellant. This Appeal pertains to the assessment year 2009-10.

2. We admit this Appeal on the following substantial questions of law :

> *(i) Whether the Tribunal after accepting that this is 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 16th 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% disallowance on bogus purchases is upheld ?*

3. The Appellant will have to take steps to serve the Respondent and file affidavit of service.

4. Tag this Appeal along with ITXA No. 158 of 2019.

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