IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

BENCH AT AURANGABAD

TAX APPEAL NO.16 OF 2011

The Commissioner of Income Tax
Aayakar Bhavan, Near Holy Cross
School, Cantonment, Aurangabad ... APPELLANT

VERSUS

Rucha Engineers Pvt. Ltd.,
K-249, M.I.D.C., Waluj,
Aurangabad ... RESPONDENT

.....

Shri Alok Sharma, Assistant Solicitor General for appellant
Shri S.V. Adwant, Advocate for respondent

.....

CORAM: A.V. NIRGUDE AND
A.I.S. CHEEMA, JJ.

DATED: 24th November, 2014.

Date of reserving judgment : 8/10/2014
Date of pronouncing judgment : 24/11/2014

JUDGMENT (Per A.I.S. Cheema, J.) :

1. (a) Vide order dated 27.3.2007, the Assistant Commissioner of Income Tax, Circle I, Aurangabad, imposed penalty of Rs.61,55,775/- for furnishing inaccurate particulars under Section 271(1)(c) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act' for short) for assessment year 2003-04 against respondent Rucha Engineers Pvt. Ltd.

(b) The respondent filed appeal to Commissioner of Income Tax (Appeals), Aurangabad vide Appeal No.ABD/CIT(A)-I/37/2007/08 and vide orders dated 17.3.2008, the penalty imposed was cancelled for reasons recorded.

(c) Revenue carried further appeal to the Income Tax Appellate Tribunal (Pune Bench(A), Pune and the ITA -913(PN/2008-AY-2003-04 was rejected. Cross objection filed by the present respondent also came to be dismissed. Thus, the present appeal by Revenue.

2. Case of the Revenue in brief is as follows :-

Respondent- assessee Company is manufacturer of automobile parts. It filed return of income declaring total income of Rs.59,75,720/-. It claimed deduction of Rs.1,11,66,935/- on account of waiver of sales tax deferral loan from Government of Maharashtra being capital receipt. In the earlier assessment proceedings, the A.O. noticed that the assessee has collected sales tax from customers and claimed deduction in the said amount for profit and loss. The amount of sales tax collected was retained by the assessee under the deferral scheme. However, the assessee claimed deduction under Section 43-B of the Act considering sales tax collected as deemed payment for the purpose of Section 43-B. The Government of Maharashtra

formulated scheme of premature repayment of sales tax deferral loan. Assessee availed the said scheme and paid Rs.51.55 Lakhs towards final payment of sales tax deferral loan of Rs.163.22 Lakhs. Thus, liability of Rs.111.67 Lakhs got extinguished. This gain of Rs.111.67 Lakhs was claimed by assessee as capital receipt.

The A.O. rejected the claim of assessee as assessee attempted to take double benefit, as the amount had already been allowed under section 43-B. The A.O. referred to decision in the matter of C.I.T. Vs. Thirumaliaswamy Naidu (1998 230 ITR 534) of Hon'ble Supreme Court and assessment order under Section 143(3) of the Act was passed on 30.12.2005 (Exhibit A), making addition of Rs.111.67 Lakhs to the total income of assessee. A.O. also initiated penalty proceedings under Section 271(1)(c) for furnishing inaccurate particulars of income.

In the appeal filed by assessee in earlier proceeding before Commissioner of Income Tax (Appeals), Aurangabad, the order of A.O. was confirmed on 24.3.2006.

After the earlier First Appeal proceedings were disposed, the A.O. levied penalty under Section 271(1)(c) at the rate of 150%, amounting to Rs.61,55,775/- on 27.3.2007, relying on the decision of Hon'ble Supreme Court in the case of

Shane Steel and Press Works Ltd. & ors. Vs. C.I.T. (228 ITR 253) and Thirumalaiswamy Naidu (supra). A.O. held that, there was blatant disregard or contempt to the provisions of law taking advantage of faith reposed by Government and the impugned order dated 27.3.2007 (Exhibit B) was passed. This order of A.O. was cancelled by C.I.T. (A) vide order dated 17.3.2008 mentioned above, holding that the conduct of assessee did not show intention was there to hide the facts or furnish inaccurate particulars and that there was no scope to levy penalty. Reliance was placed on the case of Deelip N. Shroff Vs. CIT [291 ITR 519 (SC)]. The order dated 17.3.2008 is at Exhibit C. The appeal of the revenue was rejected by the appellate Tribunal vide order dated 28.7.2010 (Exhibit D), interalia holding that, even if the assessee's contention was not found correct on subsequent judicial scrutiny, it did not make the explanation unacceptable and the claim of the assessee that it was capital receipt, was not baseless.

3. In present appeal, it has been argued on behalf of the revenue, and grounds have been raised that the assessee had made wrong claim of deduction considering extinguished liability of sales tax deferral loan as a capital receipt. On the amount, assessee also claimed deduction under Section 43-B. Merely because detailed note along with return of income was filed

making wrong claim of deduction, it cannot be said that the act of the assessee was bonafide. The addition made by the A.O. holding the amount as revenue receipt has been upheld in appeal. Mere submitting the claim, which is inaccurate in law, may not amount to inaccurate particulars of income, but it is necessary that the claim should be bonafide. If the claim is incorrect in law, and also malafide, explanation (1) of Section 271(1)(c) gets attracted to the disadvantage of the assessee. It has been argued that, the assessee was taking chance that only small percentage of income tax returns are picked up for scrutiny. As the claim was wholly without basis, the explanation furnished was found to be not bonafide. For such reasons, the revenue claims setting aside of the orders of the appellate Tribunal.

Case of Respondent – Assessee

4. Per contra, it has been submitted on behalf of the respondent that, the assessee has opted for Sales Tax Deferral Scheme on 26.3.1999 and was granted eligibility certificate by DIC, Aurangabad under No.DICA/PSI-1993/STI/ DEFERRAL/ 354 for an amount of Rs.2,52,36,000/-. In the financial year 2000-2001, the eligibility granted to the assessee company under the Sales Tax Deferral Scheme was enhanced by the DIC, Aurangabad from Rs.2,52,36,000/- to Rs.2,82,85,000/-. The

capital incentive of Rs.15,00,000/- to be received by the assessee from State Government under the Sales Tax Deferral Scheme was converted in Sales Tax Incentive of Rs.30 Lakhs. Thus, the eligibility under the Sales Tax Deferral amount was enhanced from Rs.2,82,85,000/- to Rs.3,12,85,000/-. In 2001-2002, the DIC, Aurangabad sanctioned additional Sales Tax Incentive of Rs.56,90,000/- to the assessee vide eligibility certificate No.431133/S/750/R31-B/SSI/93/401, thereby making the total Sales Tax Deferral Incentive to Rs.3,69,75,000/-. As per the Sales Tax Deferral Scheme, upon receipt of eligibility certificate, the Sales Tax collected by the assessee was termed as Sales Tax Deferral loan and was credited to Sales Tax Deferral loan account in its Balance Sheet.

5. It is further submitted by behalf of the respondent that the assessee had applied to the Sales Tax Department for conversion of amount of sales tax deferral scheme to the Sales Tax Deferral Loan. The amount of Sales Tax Deferral loan for the financial year 2000-2001 and 2001-2002 was worked out at Rs.1,63,22,000/-. As per the package scheme of incentive, the repayment of sales tax deferral loan was to begin from the year 2010 and was to be repaid in five equal installments up to 2015. It is further submitted that, the Government of Maharashtra was in financial constraints and, pursuant to the amendment in

Section 38(4) of the Bombay Sales Tax Act, it promulgated a scheme vide its Circular No.39T of 2000, dated 12.12.2000, giving option to the assessee to pay the net present value (premature payment) of the Sales Tax Deferral liability for 10 years and treat it as fully paid.

6. It is further submitted that, out of the sales tax deferral loan of Rs.1,63,22,000/- (NPV as per the calculations prescribed in Rule 31-D of the Bombay Sales Tax Rules, 1959) payable by the assessee worked out to Rs.51,22,000/- which was paid by the assessee as full and final payment of sales tax deferral loan under the scheme of the State, dated 12.12.2000, whereby the difference amount of Rs.1,11,67,000/- has been taken as capital reserve and the disclosure to that effect has been made in all the related financial papers of the assessee, more particularly the following :

(i) That the amount of difference between the liability of Sales Tax Deferral loan appearing in the balance sheet and the amount actually paid by the assessee was credited to the capital reserve account in the balance sheet dated 31.3.2003.

(ii) The auditors of the company had given a detailed disclosure note against item of Form 3CD of the Tax Audit Report devised under Section 44AB of the

Income Tax Act.

(iii) Statement of computation of income to which the disclosure note was annexed was part and parcel of the return.

(iv) That the amount of capital reserve was added and separately deducted from the computation of income.

It is submitted that, thus, there was no inaccurate furnishing of particulars by the assessee to the Income Tax authority, as is claimed by the Revenue. The respondent submitted to consider the following aspects:

(a) There was no mens rea on the part of the assessee while furnishing particulars of its income.

(b) The word 'inaccurate' signifies a deliberate act or omission on the part of the assessee, however, in the present case, the assessee has given the specific declaration in the Income Tax return as to how the amount of capital reserve was arrived at.

(c) The term 'inaccurate particulars' has not been defined anywhere in the Income Tax Act, therefore, furnishing of an assessment of the value of property along with the declaration of assessment, is not furnishing inaccurate particulars.

(d) Mere making of a claim, which is not sustainable in

law, will not amount to furnishing inaccurate particulars regarding the income of the assessee.

(e) Making an incorrect claim in law cannot tantamount to furnishing inaccurate particulars.

(f) It is not that any statement made or any detail supplied by the assessee was found to be factually incorrect, therefore the assessee cannot be held guilty of furnishing inaccurate particulars.

(g) The word 'particulars' used in Section 271(1)(c) would embrace the meaning of the details of the claim made.

It is submitted by the learned counsel for respondent that, in the present case, it is an admitted position that no information given in the return was found to be incorrect or inaccurate, therefore, the claim of the revenue is unsustainable in law, as is concluded by the Hon'ble Supreme Court in the matter of Commissioner of Income tax, Ahmedabad Vs. Reliance Petro Products Pvt. Ltd., reported in [(2010) 11 SCC Page 762. Therefore, the respondent prayed to dismiss the appeal.

7. In view of the above conflicting claims made by both sides, the appeal was admitted on 8.10.2014 on the following substantial questions of law :

(i) Whether the Income Tax Appellate Tribunal erred in deleting the penalty amounting to Rs.61,55,775/- imposed by the Assessing Officer u/s 271(1)(c) of the Income Tax Act, 1961 ?

(ii) Whether on the facts and in the circumstances of the case, the Tribunal was justified in holding that the contention of the assessee is bonafide even though the assessee failed to substantiate its claim ?

(iii) Whether the assessee's action disclosing certain particulars in the form of notes to "statement of income" and making wrong claim on the basis of such notes, amounts to furnishing of inaccurate particulars of income ?

8. The appeal has been finally heard with consent of both sides. We have carefully gone through the matter. Portions relevant of section 271 of the Act for the purpose of present matter are :

"271. (1) If the Assessing Officer or the Commissioner (Appeals) or the Commissioner in the course of any proceedings under this Act, is satisfied that any person --

(a) - - - - - -

(b) has failed to comply with a notice under sub-section (2) of Section 115WD or under sub-section (2) of Section 115WE or under sub-section (1) of Section 142 or sub-section (2) of Section 143 or fails to comply with a direction issued under sub-section (2A) of Section 142, or

(c) has concealed the particulars of his income or furnished inaccurate particulars of such income, or

(d) has concealed the particulars of the fringe benefits or furnished inaccurate particulars of such fringe benefits,

he may direct that such person shall pay by way of penalty, ---

(i) - - - -

(ii) in the cases referred to in clause (b), in addition to tax, if any, payable by him, a sum of ten thousand rupees for each such failure;

(iii) in the cases referred to in clause (c) or clause (d), in addition to tax, if any, payable by him, a sum which shall not be less than, but which shall not exceed three times, the amount of tax sought to be evaded by reason of the concealment of particulars of his income or fringe benefits or the furnishing of inaccurate particulars of such income or fringe benefits.

Explanation 1:- Where in respect of any facts material to the computation of the total income of any person under this Act, –

(A) such person fails to offer an explanation or offers an explanation which is found by the Assessing Officer or the Commissioner (Appeals) or the Commissioner to be false, or

(B) such person offers an explanation which he is not able to substantiate and fails to prove that such explanation is bona fide and that all the facts relating to the same and material to the computation of his total income have been disclosed by him,

then, the amount added or disallowed in computing the total income of such person as a result thereof shall, for the purposes of clause (c) of this sub-section, be deemed to represent the income in respect of which particulars have been concealed."

9. It appears in the above clause (C), earlier there was word 'deliberately' between the words 'or' and 'furnished inaccurate particulars'. The word 'deliberately' was omitted by the Finance Act of 1964 w.e.f. 1.4.1964. Thus seen, the Act of furnishing inaccurate particulars was deliberate or otherwise, is immaterial. What is material is that, it will have to be seen if the

particulars of the income were 'inaccurate'. If it cannot be shown, the revenue would not have a case. It is for such reasons, we are not impressed by the submissions made by the learned counsel for the appellant that the assessee took a chance with law knowing that only few returns are taken up for scrutiny and so, the assessee was taking a chance to get away with the wrong explanation. The A.O., in impugned order dated 27.3.2007 (Exhibit B), was given explanation by assessee regarding particulars of income shown in the returns. The A.O. reproduced the same as follows :

> "(i) In the audited accounts the amount has been credited to Capital Reserve and in para 2.6 in notes to accounts, detailed note has been given as why and how amount is credited to Capital Reserve.
>
> (ii) In the statement of total income Company has added 'Waiver of Sales Tax Deferral Loan from Government of Maharashtra', and under the same caption the same has been deducted from computation as capital receipt not taxable. While for the deduction Company has given reference of note no.3 attached and forming part of computation of income.
>
> (iii) Company has furnished full particulars of the same by way of detailed note no.3.
>
> (iv) In form 3CD at Clause 13(d), particulars have been furnished.
>
> Again during the course of hearing detailed submission has been made by the Company in support of its contention that it is a "Capital Reserve" and not liable to tax.

> In view of this it is not correct to state that Company has furnished inaccurate particulars of such income. May it be that your honour is of the view that it is revenue receipt to protect the interest of revenue and keep the issue alive, your honour has made the addition.
>
> The Company has not furnished inaccurate particulars of income. The debatable issue can not be subject to penalty under Section 271(1)(c)."

The A.O., however, was not impressed and observed that the assessee has attempted to take double benefit; that first it had claimed revenue expenditure on account of payment of sales tax which was actually not paid to the State Government but retained by it as per the incentive scheme of the Government and secondly, by treating the said receipts as capital receipts.

10. In the first appeal to the Commissioner (Exhibit C), the Commissioner took note of the rival cases put up and found that the dispute revolved regarding whether or not benefit accrued to the assessee was capital receipt or revenue receipt, he found that, the issue was admittedly complicated and debatable. During the course of assessment proceedings as well as appellate proceedings, reliance was placed on various judicial pronouncements touching the issue. It was observed that, the facts and ratio in the matter of Thirumaliaswamy Naidu (supra), though identical, the present matter was not as simple as the

case of Thirumaliaswamy. In the matter of Thirumaliaswamy, the assessee, in the course of sale of its products, collected amounts towards possible liabilities of sales tax and the amount was deposited by the assessee with the Government resulting into deduction for the same in concerned years. The concerned provisions were struck down by the High Court and so, there was refund from the Government, which was held by the Hon'ble Supreme Court as revenue receipts. The first Court of appeal thus observed that, the case of the respondent though identical, was not as simple as the case of Thirumaliaswamy. In the case of the respondent, sales tax liability was converted into a loan and issue under consideration was whether the relationship between Government and respondent was of borrower and depositor. The issue was whether repayment of loan at discounted value constituted a taxable event or not. It was found in the first appeal that it could not be said that the issue was not debatable at all. It was found that, in the earlier proceedings, the A.O. and the C.I.T. (Appeal) had come to the conclusion that the amount was revenue receipt after great deliberation and after analyzing various provisions. In such situation, it has been found that the respondent's claim that it was under bonafide belief regarding taxability of the amount, could not be brushed aside. It has been observed in the first appeal (Exhibit C) as under :

"It is also an admitted position that appellant has furnished detailed note in respect of aforesaid claim with the computation of income. Apart from note furnished along with computation income, the appellant has also attached enclosure in this regard at following places in the enclosures of return of income;

a) In a note to accounts with audited accounts;

b) In a note with Tax Audit Report in Form No.3CD and;

c) In computation of income.

This item is separately added and then deducted. The aforesaid conduct of appellant clearly indicate that the intention of the appellant was not to hide the fact or furnish any inaccurate particulars in this regard. Facts of the case show that the appellant was under bona fide belief that the Waiver of Sales Tax Deferred Loan by the Maharashtra Government is not liable to tax in view of this being capital receipts in nature. While claiming the aforesaid deduction, the appellant has not concealed any particulars of income and the appellant's conduct cannot be held as deliberately in defiance of law and contumacious with conscious disregard of provisions of law. In such situation, there is no scope for levying of penalty."

11. The appellate tribunal also in its order (Exhibit D) discussed the judgment in the matter of Thirumaliaswamy vis-a-vis the facts of the present matter and observed that facts of the case of respondent though identical, but were not as exactly as that of the matter of Thirumaliaswamy. The appellate Tribunal also considered the fact that the issue in hand required detailed

analysis of the scheme offered by the Government and it could not be said that the issue was not debatable at all at the relevant point of time. The appellate Tribunal also found that, after analyzing facts and provisions in this regard, the authority had come to the conclusion that the amount was revenue receipt. In such situation, the claim of the respondent/ assessee that it was under bonafide belief regarding taxability of the said amount, should not be ignored. It was held as under :

> "The legal contentions raised on behalf of the assessee irrespective of ultimately accepting or not should not be concluded as willful deviation of relevant provisions. Similarly when a claim was made based on certain decisions, and it is rejected, it cannot amount to concealment. The explanation given by the assessee for claiming deduction has to be objectively considered and before imposing penalty, the A.O. has to demonstrate that the explanation of the assessee or his conduct is not justified on the test of reasonable human probabilities. In the present case, it was explained that the assessee was of the bonafide view that the amount saved out of waiver of sales tax loan is a capital receipt. The assessee's claim was based on certain judicial pronouncements and some legal analysis, which was subsequently, not found correct. However, merely the fact that assessee's contention was not found correct on subsequent judicial scrutiny did not make it unacceptable explanation. The assessee's claim cannot therefore be said to be without any basis. In view of this, the claim of the assessee that amount is a capital receipt may or may not be acceptable in the course of assessment or further judicial scrutiny but rejection of such claim by itself does not make a claim liable to be visited with penalty under Section 271(1)(c) of the Act."

12. The appellate Tribunal found that, without prejudice to the above, the assessee still had furnished detailed notes in respect of the claim with the computation of the income. It has been also found that, the assessee was under bonaifde belief that the waiver of the sales tax was not liable to tax in view of the same being capital receipt in nature. It found that, the assessee had not concealed any particulars of the income and the conduct of the assessee was not deliberate, in defiance of relevant provisions of law. The Tribunal thus upheld the order of the first appeal.

13. It is quite clear that the respondent had not concealed the particulars of its income. The necessary particulars had been furnished in more than one way. The issue whether the concerned amount was revenue receipt or capital receipt is clearly debatable and separate proceedings in that regard are already pending in this High Court, which is not disputed fact. In this judgment, we are not deciding if the said amount was capital receipt or revenue receipt. Material here is only if there was a debatable issue. The respondent- assessee submitted necessary particulars by way of audited accounts and also statement of total income and even added necessary notes with the returns and took a stand. We find that, there is no

substance in the arguments of the appellant- Revenue that explanation (1) of Section 271 is attracted. It will be necessary to first show that, either the particulars were "concealed" or that the particulars were "inaccurate". Unless this requirement of section 271(1)(c) gets attracted, the question of going to the explanation will not arise.

14. Apart from this, even if the explanation is perused, it cannot be said that, explanation offered by the respondent-assessee was false. The respondent- assessee did put up an explanation along with necessary notes. Only because the stand taken was not accepted by the A.O., relying on reasonings from different rulings does not make the explanation false. Both the courts in appeal below have found the explanation of the respondent- assessee as bonafide. In such situation, in the present appeal, we would not like to enter into that question which must be said to be question of fact. The particulars furnished by the assessee cannot be labelled as inaccurate merely because the revenue on strenuous reasonings accepted the same as capital receipt, rejecting the claim of the respondent- assessee that the same was capital receipt. The facts of the matter show that, the A.O., after he passed the earlier order dated 30.12.2005, waited till the order in appeal was passed on 24.3.2006, and only thereafter on 27.3.2007,

passed present impugned order (Exhibit B), imposing penalty in the proceedings, which had been started earlier. Thus, even the A.O. appears to have harboured doubts whether his order would be interfered with. We agree with the orders in the first appeal as well as the orders of the tribunal that the amount claimed by the assessee was debatable and when the assessee had given all the necessary particulars, it could not be construed as concealing the income or furnishing inaccurate particulars for evasion of tax. The issue whether prepayment of loan at a discounted value constitutes taxable event or not, is debatable and we agree with the judgment in the first appeal and the judgment of the Tribunal that the facts of the case of "Thirumaliaswamy", there was scope to distinguish. A legal contention raised bonafide by the respondent- assessee claiming the amounts to be capital receipt, only because the same was not accepted, by itself cannot be said to be act of fraud or gross or willful negligence. Record shows that, the respondent- assessee was relying on decisions of various Courts to support its claim. Merely because the claim was rejected, the same cannot be branded as concealment. Before proceeding to the explanation below Section 271 and putting the responsibility on the assessee, it is necessary for the A.O. to first demonstrate that the explanation of the assessee or the conduct of the assessee was not reasonable on human probabilities, or that it was in the nature of violating settled legal

positions. It cannot be said that, the explanations given by the respondent- assessee were fanciful, baseless or unacceptable.

15. With reference to Section 271(1)(c) reproduced above, it would be appropriate to refer to observations of the Hon'ble the Supreme Court in the matter of Commissioner of Income Tax, Ahmedabad Vs. Reliance Petroproducts Pvt. Ltd., reported in [(2010) 11 Supreme Court Cases 762]. In this regard, in para Nos.10 and 11, the observations were as under :

> "10. . . . .A glance at this provision would suggest that in order to be covered, there has to be concealment of the particulars of the income of the assessee. Secondly, the assessee must have furnished inaccurate particulars of his income. Present is not the case of concealment of the income. That is not the case of the Revenue either. However, the learned counsel for the revenue suggested that by making incorrect claim for the expenditure on interest, the assessee has furnished inaccurate particulars of the income. As per Law Lexicon, the meaning of the word "particular" is a detail or details (in plural sense); the details of a claim, or the separate items of an account. Therefore, the word "particulars" used in Section 271(1)(c) would embrace the meaning of the details of the claim made. It is an admitted position in the present case that no information given in the return was found to be incorrect or inaccurate. It is not as if any statement made or any detail supplied was found to be factually incorrect. Hence, at least, prima facie, the assessee cannot be held guilty of furnishing inaccurate particulars.
>
> 11. The learned counsel argued that "submitting an incorrect claim in law for the expenditure on interest would amount to giving inaccurate particulars of such income". We do not think that such can be the interpretation of the words concerned. The words are plain and simple. In order to expose the assessee to the penalty unless the case

> is strictly covered by the provision, the penalty provision cannot be invoked. By any stretch of imagination, making an incorrect claim in law cannot tantamount to furnishing inaccurate particulars."

In para Nos.17 and 20, the Hon'ble Supreme Court observed as follows :

> "17. We are not concerned in the present case with *mens rea*. However, we have to only see as to whether in this case, as a matter of fact, the assessee has given inaccurate particulars. In Webster's Dictionary, the word "inaccurate" has been defined as :
>
> > "not accurate, not exact or correct: not according to truth; erroneous, as an inaccurate statement, copy of transcript."
>
> We have already seen the meaning of the word "particulars" in the earlier part of this judgment. Reading the words in conjunction, they must mean the details supplied in the return, which are not accurate, not exact or correct, not according to truth or erroneous."
>
> 20. . . . . Merely because the assessee had claimed the expenditure, which claim was not accepted or was not acceptable to the revenue, that by itself would not, in our opinion, attract the penalty under section 271(1)(c). If we accept the contention of the Revenue then in case of every return where the claim made is not accepted by the assessing officer for any reason, the assessee will invite penalty under Section 271(1)(c). That is clearly not the intendment of the legislature."

16. For reasons mentioned above, we do not find any error in the orders passed by the appellate Tribunal maintaining deletion of the penalty as was imposed by the A.O. The two courts of appeal below rightly held that the act of the assessee

was bonafide even though the assessee may have failed to substantiate its claim that the amount was capital receipt. The assessee had not concealed and had disclosed necessary particulars in the form of notes to the statement of8909364905_97f179e3d5_o income and it could not be said that, the assessee made wrong claims which could be branded as inaccurate particulars. The substantial questions of law raised on the basis of facts of the present matter are answered against the revenue.

17. There is no substance in the Appeal. The appeal stands dismissed.

(A.I.S. CHEEMA, J.) (A.V. NIRGUDE, J.)