



Chaitanya

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

INCOME TAX APPEAL NO. 58 OF 2020

Pr. Commissioner Of Income Tax-2,
Thane

... Appellant

Versus

Pacific Organics Pvt. Ltd.

... Respondent

Mr Akhileshwar Sharma, for Appellant.

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

DATED : 29 APRIL 2025

PC:-

1. Heard Mr Sharma, learned counsel for the Appellant. This Appeal relates to the assessment year 2011-12. The Appeal memo admits the tax effect is Rs. 53,79,043/-. However, Mr Sharma contends that this Appeal falls within the exempted categories.

2. Without going into the issue of whether this Appeal falls within the exempted categories or not, we have heard Mr Sharma, learned counsel for the Appellant, on the merits. One of the main reasons why the ITAT has held against the Appellant-Revenue is that the show cause notice was

ambiguous, in that the relevant portions were not ticked, or the irrelevant portions were not struck off.

3. An identical issue was considered by the Full Bench of this Court, in the case of ***Mohd. Farhan A. Shaikh V/s. Deputy Commissioner of Income Tax, Central Circle 1, Belgaum***¹, wherein it was held that if the notice contains no caveat that the inapplicable portion was to be deleted, any action based on such notice would be inferred. The Full Bench held that the notice must be precise and there should be no room for ambiguity. The ITAT has followed decisions which the Full Bench subsequently approved in ***Mohd. Farhan A. Shaikh*** (supra).

4. Mr Sharma, however, relied upon ***Veena Estate (P) Ltd. V/s. Commissioner of Income-tax***². In this case, the Appellant-Assessee, who had never raised any ground about the ambiguity of the notice before the Assessing Officer, Appellate Authority and ITAT, attempted to raise such a ground for the first time in an Appeal under Section 260-A of the Income Tax Act. This was not allowed by the coordinate bench. Such facts do not obtain in the present Appeal, and therefore, based upon the decision in ***Veena Estate (P) Ltd.*** (Supra), we cannot fault the ITAT for having taken the view aligning with that taken by the Full Bench in the case of ***Mohd. Farhan A. Shaikh*** (supra)

¹ [2021] 125 taxmann.com 253 (Bombay)

² [2024] 158 taxmann.com 341 (Bombay)

5. Considering the above position, the substantial questions of law as formulated in paragraph 4 of the Appeal memo would not arise and, in any event, would have to be answered against the Appellant/Revenue.
6. For the above reasons, we dismiss this Appeal.
7. No costs.

(Jitendra Jain, J)

(M.S. Sonak, J)