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

INCOME TAX APPEAL NO. 85 OF 2020

Principal Commissioner of Income Tax-12,
Mumbai .. Appellant

Versus

Jas Trading Pvt. Ltd. .. Respondent

Adv. Akhileshwar Sharma for the Appellant.

Adv. Rahul Hakani (thr. V.C) for the Respondents .

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE: AUGUST 3, 2026

P. C.

1. The above Praecipe has been moved for Speaking to the Minutes of the Order passed by this Court on 17th June, 2026. Mr. Sharma, the learned Counsel appearing on behalf of the Appellant Revenue, brought to our attention that the Questions of Law as reproduced in the said Order have been wrongly inserted as they have nothing to do with the subject matter of the aforesaid Appeal. He pointed out to us that the Substantial Questions of Law have been set out at pages 8 and 9 of the paper book and it is these questions that have to be reproduced in the Order dated 17th June, 2026.

2. It is indeed true that the Questions of Law reproduced in the Order are not the Questions of Law in the Appeal. In fact the Questions of Law as set out in the Order have nothing to do with the subject matter of the Appeal. They have been incorporated in the Order by a mistake committed by the stenographer. In these circumstances, we direct that, in paragraph 1, the Questions of Law will be substituted as under:

> *A. "Whether on the facts and in the circumstances of the case and in law, the Hon'ble ITAT was justified in holding that the reopening of the case was bad in law, when the relevant provisions of the I.T. Act and the position of law prevailing over reopening of the assessment was duly followed by the Assessing Officer?"*
>
> *B. "Whether on the facts and in the circumstances of the case and in law, the Hon'ble ITAT was justified in quashing the reassessment order relying upon the ITAT Judgment in the case of Tata International Ltd. Vs. DCIT, 52 SOT 465 as the facts in this case is different from the TATA International's case as in the instant case, the case was reopened on the basis of statement given by the director of the company Shailesh Shah before income tax authorities?"*
>
> *C. "Whether on the facts and in the circumstances of the case and in law, the Hon'ble ITAT was justified in quashing the reassessment order relying upon the Hon'ble ITAT Judgment in the case of Tata International Ltd. Vs. DCIT, 52 SOT 465, as the assessee was given relevant portion of reasons recorded by the AO omitting only that portion of reason which was nothing but statement of the Director of the company given before IT Authority and already in possession of the assessee?"*

3. The correction shall be carried out in the original Order as well as in the copy uploaded on the server.

Mansi shelke

4. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.] **[B. P. COLABAWALLA, J.]**

For the sake of convenience the Order dated 17th June, 2026 (as corrected) is reproduced hereunder :

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 85 OF 2020

Principal commissioner of Income Tax-12,

Mumbai .. Appellant

Versus

Jas Trading Pvt. Ltd. .. Respondent

Adv. Akhileshwar Sharma for the Appellant.

Adv. Rahul Hakani for the Respondent.

CORAM: B. P. COLABAWALLA &

FIRDOSH P. POONIWALLA, JJ.

DATE: JUNE 17, 2026

P. C.

1. The above Appeal is filed by the Revenue challenging the Order dated 6th July, 2018 passed by the ITAT. According to the Revenue, the above Appeal gives rise to the following questions of law :-

> *A. "Whether on the facts and in the circumstances of the case and in law, the Hon'ble ITAT was justified in holding that the reopening of the case was bad in law, when the relevant provisions of the I.T. Act and the position of law prevailing over reopening of the assessment was duly followed by the Assessing Officer?"*
>
> *B. "Whether on the facts and in the circumstances of the case and in law, the Hon'ble ITAT was justified in quashing the reassessment order relying upon the ITAT Judgment in the case of Tata International Ltd. Vs. DCIT, 52 SOT 465 as the facts in this case is different from the TATA International's case as in the instant case, the case was reopened on the basis of statement given by the director of the company Shailesh Shah before income tax authorities?"*
>
> *C. "Whether on the facts and in the circumstances of the case and in law, the Hon'ble ITAT was justified in quashing the reassessment order relying upon the Hon'ble ITAT Judgment in the case of Tata International Ltd. Vs. DCIT, 52 SOT 465, as the assessee was given relevant portion of reasons recorded by the AO omitting only that portion of reason which was nothing but statement of the Director of the company given before IT Authority and already in possession of the assessee?"*

2. We have heard Mr. Sharma, the learned Advocate appearing on behalf of the Revenue, and Mr. Hakani, the learned Advocate appearing on

behalf of the Assessee. The findings of the ITAT can be found from paragraph 9 of the impugned order. The main crux of the argument of the Assessee, before the ITAT, was that the reopening of the Assessment for Assessment Year 2004-05 was bad because the reasons for re-opening the Assessment were not supplied to the Assessee and only the gist of the reasons were supplied. This ground found favour with the ITAT and hence the Appeal of the Assessee was allowed.

3. Having carefully gone through the impugned order, we find that the reasons initially supplied to the Assessee were that a director of the Assessee, namely Shri Shailesh Shah, had admitted to the Income Tax Authorities that the Assessee had engaged in certain paper entries and transactions for which the Assessee company earned a commission. It is relying upon this admission that the Assessing Officer held that he had reason to believe that income of the Assessee has escaped Assessment to the tune of 1,85,453/- for Assessment year 2004-05.

4. After the matter travelled to the Tribunal, the entire reasons were brought on record by the Revenue. The entire reasons have been set out in paragraph 5 of the impugned order. It is thus clear that the entire reasons were never supplied to the Assessee and only a gist of the reasons were

supplied. Once these are the facts, the Assessee's Appeal being allowed by the ITAT cannot be faulted.

5. We find yet another reason why we feel that the above Appeal raises no substantial question of law and ought not to be entertained. Even if we were to treat the gist of the reasons as the actual reasons supplied to the Assessee, the reason itself records that the Assessing Officer has reason to believe because of the admission made by Shri Shailesh Shah, a director of the Assessee company. Hence as per the reasons supplied to the Assessee this is the only reason why the Assessing Officer believed that income had escaped Assessment. However, what the Assessing Officer has lost sight of is that this very admission by Mr. Shailesh Shah was retracted long before the notice was issued under Section 148. Though this fact was brought to the notice of the Assessing Officer and he notes the same in the Assessment Order, and still proceeds on the basis that he is justified in not only issuing the notice but passing the Assessment Order.

6. This approach of the Assessing Officer appears to be erroneous. The sine qua non for the Assessing Officer to issue a notice under Section 148 is the fact that he has reason to believe that the income of the Assessee for that particular Assessment Year has escaped Assessment. The only reason to

believe given by the Revenue to the Assessee was the statement of Shri Shailesh Shah, and which the Assessing Officer treated as an admission. That statement, as mentioned earlier, was retracted long before the notice was issued under Section 148 and even before the Assessment Order was passed.

7. Further, that retraction has been upheld by CIT (Appeals) in an Appeal filed by one Mr. Anil Gupta and which forms part of the Order of the CIT Appeals dated 15th October, 2010. Hence, not only was there a retraction of the so-called admission, but that retraction was upheld by the Appellate Authority and that too long before the issuance of the Notice under Section 148. Once this was the case, we fail to understand how the Assessing Officer could have had reason to believe that the income of the Assessee had escaped Assessment by virtue of the fact that Shri Shailesh Shah had admitted to certain things. For this reason also, we are clearly of the view that the ITAT's Order requires no interference.

8. In these circumstances, we find that in the facts of the present case, the impugned Order of the ITAT does not give rise to any substantial question of law. The Appeal is accordingly dismissed.

9. However, there shall be no order as to costs.

Mansi shelke

10. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.] **[B. P. COLABAWALLA, J.]**

Mansi shelke