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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INCOME TAX APPEAL (L)NO. 2280 OF 2009

The Commissioner of Income Tax

..Appellant

Vs.

M/s.Purshottam Transport

..Respondent

Ms.Suchitra Kamble for appellant.

CORAM :- VC.DAGA &
J.PDEVADHAR, JJ.

DATE : 14TH OCTOBER, 2009

PC.

1. Heard. Perused appeal.

2. The question sought to be raised in the appeal relates to deletion of the penalty levied u/s.158BFA(2) of the Income Tax Act,1961. Learned Counsel for the appellant sought to argue that the Assessing Officer has no discretion to waive penalty. He has got to impose it. The said issue has been considered by the Tribunal in paragraph No. 10 of its order, which reads as under:

“10. On the merits of the imposition of the penalty, we are of the view that explanation offered by the assessee deserves due consideration. As has been rightly contended on behalf of the assessee, it cannot be said that the assessee knowingly and deliberately filed inaccurate information or concealed particulars of income. Determination of undisclosed income has been made on the basis of estimates. It is also not possible to foresee the quantum of undisclosed income for the block period. In those circumstances, nature of the addition made has to be seen. As already noticed, additions have been made only in respect of nature of undisclosed income which was duly disclosed by the assessee in the return for the block period. Additions were made only on estimates. In the light of the explanation offered by the assessee, we are of the view that this is not a fit case for imposition of penalty u/s.158BFA(2) of the Act. In the circumstances, we direct that the penalty imposed be cancelled. “

3. Considering the reasons given, we find no fault with the view taken by the Tribunal. The view taken by the Tribunal is a reasonable and possible view. In this view of the matter, the appeal stands dismissed in limine for want of substantial question of law with no order as to costs.

(J.P.DEVADHAR,J.)

(V.C.DAGA,J.)