

# **Commissioner of Income Tax-1 v. Bajaj Herbals Pvt. Ltd., 2022 SCeJ 0390**

Supreme Court of India

*JUSTICE M. R. SHAH JUSTICE B.V. NAGARATHNA*

**The Principal Commissioner of Income Tax-1 v. M/s. Bajaj Herbals Pvt. Ltd.**

CIVIL APPEAL NO. 2659 OF 2022

7th April 2022

## **Non Speaking Order**

**Tax - Appeal - By revenue - High Court has dismissed the appeal simply by observing that none of the questions as proposed by the revenue could be termed as the substantial questions of law and all the questions proposed are on factual aspects of the matter - Except reproducing the proposed questions of law, there is no further discussion on the factual matrix of the case - Impugned order is a non-speaking and non-reasoned order and even the submissions on behalf of the revenue are not recorded, the impugned order passed by the High Court dismissing the appeal is unsustainable - Impugned order is hereby quashed and set aside and remanded to the High Court.**

Petitioner Counsel: RAJ BAHADUR YADAV

## **JUDGEMENT**

**M. R. Shah, J.** - Feeling aggrieved and dissatisfied with impugned order dated 01.10.2020/02.12.2020 (modification order) passed by the Division Bench of the High Court of Gujarat at Ahmedabad in R/Tax Appeal No. 278 of 2020, by which the High Court has dismissed the said appeal preferred by the appellant herein – Revenue, the present appeal has been preferred by the Revenue.

2. As per the office report the respondent is served. From the office report, it appears that the respondent – assessee sent a letter to the Registry of this Court on 22.10.2021 to grant an adjournment of three months. The time was accordingly granted. Despite the same no one has filed vakalatnama and none has appeared on behalf of the respondent. Hence, service of notice on the respondent is complete.

3. By the impugned order the High Court has dismissed the said appeal simply by observing that none of the questions as proposed by the revenue could be termed as the substantial questions of law and all the questions proposed are on factual aspects of the matter. However, it is required to be noted that except reproducing the proposed questions of law, there is no further discussion on the factual matrix of the case. While issuing the notice,

this Court passed the following order:

*"Mr. Balbir Singh, learned ASG, has vehemently submitted that in the impugned order except narrating the proposed questions of law, there is no independent reasoning given by the High Court while dismissing the appeal except recording that "having gone through the materials on record, we are of the view that none of the questions as proposed by the revenue could be termed as the substantial questions of law. All the questions proposed are on factual aspects of the matter".*

*Hence, issue notice for final disposal returnable within six weeks.*

*Counter be filed within four weeks from the date of receipt of the notice.*

*Dasti, in addition, is permitted."*

3.1 As the impugned order passed by the High Court is a non-speaking and nonreasoned order and even the submissions on behalf of the revenue are not recorded, the impugned order passed by the High Court dismissing the appeal is unsustainable.

3.2 Under the circumstances, the impugned order is hereby quashed and set aside. The matter is remanded to the High Court to decide and dispose of the appeal afresh in accordance with law and on its own merits. If the High Court is of the opinion that the proposed questions of law are not substantial questions of law and they are on factual aspects, it will be open for the High Court to consider the same in accordance with law, however, the High Court to pass a speaking and reasoned order after recording the submissions made on behalf of the respective parties.

4. The present appeal is allowed to the aforesaid extent. No costs.