

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

INCOME TAX APPEAL NO. 1426 OF 2018
WITH
INCOME TAX APPEAL NO. 894 OF 2018
WITH
INCOME TAX APPEAL NO. 995 OF 2018

The Pr Commissioner Of Income Tax-3 Pune ...Appellant
Versus

Mr. Subhash & B T Patil And Sons And
N V Kharote Construction Pvt Ltd Jv ...Respondent

Mr. Vikas t. Khanchandani, for Appellant.

Mr. Satish Modi, a/w Ms. Aasifa Khan, for Respondent.

CORAM : M.S. Sonak &
Advait M. Sethna, JJ.

DATED : 24 September 2025

PC.:-

1. These appeals are not on board. However, with the consent of learned counsel for the parties they are taken on board.
2. These appeals are in fact connected with ITXA No. 41 of 2024 which we have admitted today.
3. Accordingly, we admit these appeals on the following substantial questions of law.

“A. Whether on the facts and in the circumstances of the case and in law, the Hon'ble Income Tax Appellate Tribunal erred in holding that in absence of any contract or sub contract work by Joint Venture to its member, provisions of

section 194C were not applicable for the purpose of TDS, without appreciating the fact that the work contract order issued to the assessee were in assessee's name and so also the payments were credited to the assessee's account and as such reallocation of these contracts between the members of the JV assessee would amount to sub contracting?

B. Whether on the facts and in the circumstances of the case and in law, the Hon'ble Income Tax Appellate Tribunal was justified in not taxing profit in the hands of Joint Venture irrespective of such profit was offered to tax in the hands of members. Reliance is placed on decision of Hon'ble Supreme Court in the case of Ch. Achaiah (1996) 218 ITR 239 and on the ruling of AAR in the case of Geo-consultant ST GMBH in 304 ITR 283 (AAR)?

C. Whether, on the facts and circumstances of the case and in law and on true construction of the statutory provisions contained in section 40(a)(ia) of the Income Tax Act, 1961, the Income Tax Appellate Tribunal has erred in holding that payments to the joint ventures represented expenditure of the assessee which was not allowable as deduction from the alleged income of the Respondent assessee in view of Provisions of Section 40(a)(ia) of Income Tax Act, 1961?"

4. Mr. Satish Modi waives service on behalf of the respondent.

5. Tag these appeals with ITXA No. 41 of 2024

6. List this appeal for final hearing on **12th November 2025 at 3.00 pm**, subject to overnight part-heard matters. Learned counsel for the parties have agreed to provide a synopsis along with a list of judgments they will rely upon, in advance.

(Advait M. Sethna, J)

(M.S. Sonak, J.)