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

INCOME TAX APPEAL NO. 699 OF 2013

The Commissioner of Income Tax-16 ..Appellant

Vs.

Rasila Navin Gada ..Respondent

....

Mr. A.R. Malhotra, Advocate for Appellant.
Mr. Ajay R. Singh, Advocate for Respondent.

....

CORAM : M.S. SANKLECHA &
G.S. KULKARNI, JJ.
DATED : 09 MARCH 2015

P.C.:

This appeal by the revenue under Section 260A of the Income Tax Act, 1961 (the 'Act') challenges the order dated 8 August 2012 passed by the Income Tax Appellate Tribunal (the 'Tribunal') for the Assessment Year 2006-07.

2. The appellant-revenue has formulated following questions of law for our consideration:

> *"(A) Whether on the facts and circumstance of the case and in law, the Tribunal was justified in upholding the appellate order bearing no. CIT(A)/27/ITO 16(2)(4)/251/08-09 dated 24.12.2009 wherein the CIT(A) allowed the claim of the assessee that the addition of*

Rs.23,68,748/- made by the A.O. as unexplained cash credit u/s 68 of the Act was received from share trading activities as L.T.C.G. and entitled of exemption u/s 10(38) of the Act.

(B) Whether on the facts and circumstances of the case and in law, the Tribunal was justified on relying the decision of Mr. Mukesh Ratilal Marolia decided by the Jurisdictional High Court of Bombay despite the fact the said decision had not been accepted by the department and SLP had been recommended to the CBDT?"

3. The impugned order of the Tribunal dated 8 August 2012 is a common order which also disposed of an appeal relating to Mrs. Kasturba H. Gada for the Assessment Year 2006-07. The revenue had preferred an appeal against the impugned order in case of Kasturba H. Gada being Income Tax Appeal No. 299/2013 and this Court by its order dated 21 January 2015 found that no substantial question of law arises and refused to entertain the appeal.

4. Mr. Malhotra, the learned Counsel appearing for revenue fairly states that the question as proposed by the revenue stands concluded against the revenue so far as this Court is concerned by the order of this Court in the case of Kasturba H. Gada rendered on 21 January 2015. Mr. Malhotra clarifies that he is not aware whether the revenue has accepted the decision of this Court in the case of Kasturba H.

Gada (supra). Be that as it may, no reason is shown to us to differ from the view taken by us in Kasturba H. Gada (supra).

5. Accordingly no substantial question of law arises for our consideration. Hence appeal dismissed. No order as to costs.

[G.S. KULKARNI, J] **[M.S. SANKLECHA, J.]**