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

INCOME TAX APPEAL NO. 395 OF 2013

The Commissioner of Income Tax-II, Kolhapur ..Appellant

Vs.

Marathe Dattatraya Dhundiraj ..Respondent

....

Mr. N.N. Singh, Advocate for Appellant.
Mr. Mandar Vaidya, Adocate for Respondent.

....

CORAM : M.S. SANKLECHA &
G.S. KULKARNI, JJ.
DATED : 18 FEBRUARY 2015

P.C.:

1. This appeal under Section 260A of the Income Tax Act, 1961 (the 'Act') filed by revenue challenging the order dated 30 August 2012 by the Income Tax Appellate Tribunal (the 'Tribunal') for the Assessment Year 2008-09.

2. The questions of law proposed for our consideration are as follows:

> *"(A) Whether on the facts and in the circumstances of the case and in law, the I.T.A.T. was justified in law in upholding the claim of the assessee for exemption under Section 10(10C) by erroneously relying on the decision given in Commissioner of Income Tax Vs. Koodathil Kallyatan Ambujakshan (reported in 219 CTR 80) given in the context of Exit Option Scheme for R.B.I. employees*

wherein the Bombay High Court had examined the scheme, and found it to be complaint with all the conditions laid down in Rule 2BA of I.T. Rules, 1962, whereas, in the instant case the Exit Option Scheme of S.B.I. Employees do not fulfill all the conditions laid down in Rule 2BA r.w.s. 10(10C) of the I.T. Act, 1961?

(B) Whether or not, partial satisfaction of Rule 2BA of the I.T. Rules, 1962 would entitle an assessee to relief under Section 10(10C)?"

3. The impugned order of the Tribunal dismissed the revenue's appeal by following its decision in Vijay Ganpatrao Patil rendered on 29 August 2012. The revenue had filed an appeal against the order of the Tribunal in Vijay Ganpatrao Patil (supra) to this Court being Appeal No. 303/2013. This Court by an order dated 16 February 2013 dismissed the revenue's Appeal No. 303/2013 in Vijay Ganpatrao Patil (supra).

4. Mr. Singh, learned Counsel for appellant states that it not disputed that the issues arising in present appeal are covered against the revenue by the decision rendered on 16 February 2013 in Vijay Ganpatro Patil (supra) by this Court.

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

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