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

INCOME TAX APPEAL NO. 311 OF 2013

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

Vs.

Jayant Bhalchandra Rukadikar ..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 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. It is an agreed position between the Counsel that the questions proposed stands concluded against the revenue. This is by virtue of the decision of this Court dismissing the revenue's appeal in Vijay Ganpatrao Patil being Appeal No. 303/2013 on 16 February 2013.

4. In view of the above agreed position, we find that 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.]**