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

INCOME TAX APPEAL NO. 524 OF 2013

Commissioner of Income Tax-10 ..Appellant

Vs.

M/s Godrej Agrovet Ltd. ..Respondent

....

Mr. Arvind Pinto, Advocate for Appellant.
Mr. Atul Jasani, 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 5 October 2012 passed by the Income Tax Appellate Tribunal (the 'Tribunal'). The impugned order is inrespect of the Assessment Year 2007-08.

2. The revenue has proposed the following question of law for our consideration:

> *"Whether on the facts and in the circumstance of the case and in law, the Tribunal was justified rejecting the computation of disallowance of interest made by the AO as per Rule 8D, whereas this Court in Godrej Boyce Mgf Co Ltd 234 CTR 1 had accepted the proposition of a reasonable disallwance to be made in cases of expenditure in relation to exempt income"*

3. We were unable to understand the proposed question. Mr. Pinto, learned Counsel appearing for revenue explains to us the meaning by stating that the revenue does not dispute the applicability of the decision of this Court in ***Godrej Boyce Mfg. Co. Ltd. Vs. DCIT*** reported in **328 *ITR 81*** to the present facts. However the grievance of the revenue is that in terms of decision of this Court in Godrej Boyce Mfg. Co. Ltd. (supra) reasonable disallowance of expenditure in relation to exempt income has to be made even in respect of Assessment Year prior to Assessment Year 2008-09 when Rule 8D of the Income Tax Rules, 1962 is applicable.

4. So far as the issue of disallowance of reasonable expenditure to earn exempt income is concerned, we find that the impugned order has followed its decision in case of the respondent-assessee for the Assessment Year 2005-06 where disallowance was limited to 2% of the exempt income and the same was held to be fair and reasonable. The revenue being aggrieved by the order of the Tribunal in case of respondent-assessee for the Assessment Year 2005-06 has preferred an appeal to this Court being Income Tax Appeal No. 934/2011. However the above appeal of the revenue was dismissed by an order dated 8 January 2013 by this Court.

5. Mr. Pinto submits that the issue arising in the proposed question stands concluded against the revenue by the virtue of the decision of this Court rendered on 8 January 2013 in Income Tax Appeal No. 934/2011 in respect of the same respondent-assessee. In view of the above, no substantial question of law arises for consideration.

6. Accordingly appeal dismissed. No order as to costs.

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