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

INCOME TAX APPEAL NO. 1166 OF 2013

The Commissioner of Income Tax-II	**}**	**Appellant**
versus		
Shri. Rajendra Sahadev Dhurat	**}**	**Respondent**

WITH
INCOME TAX APPEAL NO. 1227 OF 2013

The Commissioner of Income Tax-I	**}**	**Appellant**
versus		
Shri. Abdulrajak Mahebub Mutwalli	**}**	**Respondent**

Mr. N. N. Singh for the Appellants.
None for the Respondents.

CORAM :- S. C. DHARMADHIKARI &
A. K. MENON, JJ.

DATED :- MARCH 18, 2015

P.C. :-

The Assessees in these cases are ex-employees of the State Bank of India. They retired under the Voluntary Retirement Scheme termed as "Exit Option Scheme". For the assessment years 2007-08/2008-09 orders were passed by the Assessing Officer on the pretext that the Assessees had taken benefit of exemption under section 10(10C) of the Income Tax Act, 1961 for ex-gratia amount of Rs.5,00,000/-. Accordingly, the same amount was required to be brought to tax. The respondents claim that as per the above provision read with section 2BA of the I.T. Act, they are entitled for deduction. The Assessing Officer while completing the assessment has disallowed the ex-gratia amount paid to the tune of Rs.5,00,000/-. These orders were challenged before the Commissioner of Income Tax (Appeals), Kolhapur. The said Commissioner passed an order allowing the Assessees' Appeals.

2) Being aggrieved, the revenue challenged the orders before the Pune Bench of the Tribunal which have been dismissed by the impugned orders dated 15th October, 2012/23rd November, 2012.

3) We have heard Mr.N.N. Singh and we have perused the order passed by the Tribunal as also by the Commissioner of Income Tax (Appeals). The Commissioner of Income Tax (Appeals) has relied upon a Division Bench judgment of this Court in the case of *Commissioner of Income Tax V/s. Koodathil Kallytan Ambujakshan* reported in **(2008) 219 C.T.R. (Bom) 80**, wherein, this Court had considered similar issue in the case of Reserve Bank of India employees. Therefore, this scheme being identical to the Reserve Bank of India employees, the provisions of law also being identical, the Commissioner following the view and decision of this Court reversed the order of the Assessing Officer and allowed the Assessees' Appeals.

4) The Tribunal has also applied the same judgment of this Court. We do not find any reason to deviate or depart from the view taken by the Division Bench of this Court in identical facts and circumstances. In fact, another appeal of the revenue against a similarly placed Assessees was dismissed being Income Tax Appeal No.303 of 2013 (The Commissioner of Income Tax-II V/s. Shri Vijay G. Patil) decided on 16th February, 2015. It was dismissed by following the Division Bench Judgment of this Court and by holding that there is no substantial question of law. Applying the same ratio, we dismiss the present appeal. No order as to costs.

(A.K.MENON, J.) **(S.C.DHARMADHIKARI, J.)**