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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.1093 OF 2013

The Commissioner of Income Tax-I, Kolhapur ..Appellant.
V/s.
Jayprakash Ramchand Pol ..Respondent.

Mr.N.N.Singh for the appellant.

None for the respondent.

CORAM : S.C.DHARMADHIKARI AND A.K. MENON, JJ.

DATED : 17TH MARCH, 2015

P.C. :-

1. The assessee in this case is an ex-employee of the State Bank of India. He retired under the Voluntary Retirement Scheme termed as "*Exit Option Scheme*" For the assessment year 2008-09 an order was passed by the assessing officer on 27th October, 2010 on the pretext that the assessee 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 respondent claims that as per the above provision read with section 2BA of the I.T. Act, he is 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/-. This order was challenged before the Commissioner of Income Tax (Appeals), Kolhapur on 6th December, 2010. The said Commissioner passed an order allowing the assessee's appeals on 6th September, 2011.

3. Being aggrieved, the revenue challenged the order before the Pune Bench of the Tribunal which has been dismissed by the impugned order dated 19th November, 2012.

4. 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 assessee's appeal.

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 assessee 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 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.)**