IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.2146 OF 2013

Commissioner of Income Tax 10. ...Appellant
Vs.
M/s.Global Trade Finance Ltd. ...Respondent

....

Mr.Arvind Pinto, for Appellant-Revenue.

Mr.Sanjiv M.Shah, for the Respondent.

....

CORAM : M.S. SANKLECHA &
G.S. KULKARNI, JJ.

DATED : 18 November 2015

<u>P.C</u>.:

1. This appeal under Section 260-A of the Income Tax Act,1961 (the Act), by the Revenue, challenges the order dated 3 December 2012 passed by the Income Tax Appellate Tribunal (the Tribunal). The matter relates to the Assessment Year 2007-08.

2. Mr.Pinto, learned Counsel for the Revenue urges the following questions of law for our consideration.

> "(1) Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in

setting aside the assessment order for a reconsideration when the AO had rightly computed the disallowances under Section 14A read with Rule 8D ?

(2) Whether on the facts and in the circumstances of the case and in law, the Tribunal was right in ignoring that the 1d.CIT(A)/AO had concluded that the assessee had own capital /reserves only to the tune of Rs.138 crs whereas, it had loan funds of Rs.1725 crs. And the interest expenditure incurred during the current year was Rs.78 crs. and that there is an inter-mix of Reserves and the loan funds?"

3. So far as the Question No.1 is concerned, we find that the impugned order of the Tribunal has followed the decision of this Court in the case of ***"Godrej & Boyce Mfg. Co. Ltd. Vs. DCIT, (328 ITR 81)"*** in holding that Rule 8D of the Income Tax Rules would not be applicable in the subject Assessment Year as the same is applicable only from the Assessment Year 2008-09. Thus, the question No.1 as raised does not give rise to any substantial question of law. It is accordingly not entertained.

4. So far as the Question No.2 is concerned, it is not disputed on behalf of the Revenue that the impugned order of the

Tribunal has restored the entire issue raised herein for fresh consideration to the file of the Assessing Officer for passing fresh order. Consequently, the Revenue's grievance would be the subject matter of consideration by the Assessing Officer. As the issue is being examined afresh, at this stage the Revenue cannot have any grievance. In the above facts, no substantial question of law arises for our consideration. The question is therefore not entertained.

5. Accordingly, the appeal is dismissed. No order as to costs.

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