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

INCOME TAX APPEAL NO.1691 OF 2012

Commissioner of Income Tax-12 ..Appellant
*-**Versus**-*
Neil Jayant Gajjar ..Respondent

....
Mrs. S. V. Bharucha for the Appellant.
Mr. G. S. Pikale for the Respondent.
....

CORAM: S.C. DHARMADHIKARI
AND
S. P. DESHMUKH, JJ.

DATE :- 7th JANUARY, 2015.

P.C.:

This Appeal by the Revenue challenges the order passed by the Income Tax Appellate Tribunal, Bench at Mumbai, in Income Tax Appeal No.1726/Mum/2009. The assessment year in question is 2005-06.

2] The order passed on 25th February, 2011 by the Tribunal partly allows the Assessee's Appeal.

3] The substantial question of law stated to be arising from the Tribunal's finding was also subject matter of two Income Tax Appeals in this Court. In the case of ***Commissioner of Income Tax V/s. Daulal Mohta (HUF) reported in (2014) 360 ITR 680***, the Division Bench of this Court held that a reference to the Departmental Valuation Officer can only be made in cases where the value of the capital asset shown by the Assessee is less than its fair market value as on April 1, 1981. Where the value of the capital asset shown by the Assessee on the basis of the approved valuer's report was more than its fair market value, no reference could have been made to the Departmental Valuation Officer. This principle which was laid down in the earlier decision in Daulal Mohta (supra) has been followed in the case of ***Commissioner of Income Tax V/s. Puja Prints reported in (2014(360 ITR 697.***

4] It is conceded before us that the question of law raised and termed as substantial in the present Appeal is identical to the one dealt with in the above judgments of this Court. Following them, we hold that the present Appeal does not raise any substantial question of law. The controversy is fully covered by the above judgments of this Court. The questions have been answered against the Revenue and in favour of the Assessee. The Appeal is, therefore, dismissed. No costs.

(S. P. DESHMUKH, J.) **(S.C. DHARMADHIKARI, J.)**

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