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

INCOME TAX APPEAL NO. 211 OF 2013

The Commissioner of Income Tax-21 ..Appellant

Vs.

M/s Sai Shiv Developers ..Respondent

....

Mr. Suresh Kumar, Advocate for Appellant.
Mr. Subhash Shetty a/w Mr. D.C. Jain, Advocates for Respondent.

....

CORAM : M.S. SANKLECHA &
G.S. KULKARNI, JJ.
DATED : 27th JANUARY 2015

P.C.:

1. This appeal by the Revenue under Section 260A of the Income Tax Act, 1961 (the 'Act') challenges the order dated 23rd May 2012 passed by the Income Tax Appellate Tribunal (the 'Tribunal') in respect of the assessment year 2006-07.

2. The Revenue has framed the following question of law for our consideration:

> *"Whether, on the facts and in the circumstances of the case, the ITAT was right in law in holding that for invoking the provisions of Section 2(22)(e) of the Act, the shareholder must be both registered and beneficial shareholder and that the deemed dividend could not be taxed in the hands of a person other than the shareholder?"*

3. The impugned order of the Tribunal has allowed the issue of deemed dividend in favour of the respondent-assessee by following it's Special Bench decision in ***CIT Vs. Bhaumik Colour Pvt. Ltd. 313 ITR 146.*** The aforesaid decision of the Special Bench has been upheld by this Court in ***CIT Vs. Universal Medicare P. Ltd. (2010) 324 ITR 263.*** The same view has been reiterated in ***CIT Vs. Impact Containers Pvt. Ltd. (2014) 367 ITR 346.*** The Revenue is not able to point out any distinction in the present fact which would warrant not following the decision of this Court in Universal Medicare P. Ltd. (supra) and Impact Containers Pvt. Ltd. (supra). Accordingly no substantial question of law arises for our consideration.

4. Hence **appeal** is **dismissed.** No order as to costs.

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

S.S.DESHPANDE