Sbw

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.170 OF 2014

Commissioner of Income Tax (TDS) ..Appellant
Versus
M/s. Shah Group Builders Ltd. ..Respondent

....
Mr. A. R. Malhotra a/w N. A. Kazi for the Appellant.
Mr. Sameer Dalal for the Respondent.
....

CORAM: M. S. SANKLECHA &
A. K. MENON, JJ.

DATE : 24th NOVEMBER, 2016

P.C.:

1. Not on board. Mentioned for withdrawal. Upon mentioning taken up for hearing.

2. This appeal relates to A.Y. 2008-09. This appeal from the ITAT was admitted on 25th July, 2016 on the following substantial question of law:-

> *"Whether on the facts and circumstances of the case and in law, the Tribunal was correct in holding that the lease premium paid by the lesseee to the lessor was not in the nature of rent as defined in the Explanation (i) to Section 1941 of the Act for the purpose of deduction of tax at source?"*

3. Mr. Malhotra, the learned counsel appearing for the Revenue states that in view of CBDT Circular no.35 of 2016 dated 13th October, 2016 he has been instructed to withdraw the present appeal.

4. In the above view, the appeal is dismissed as withdrawn.

5. Refund of Court Fees, as per Rules.

(A. K. MENON, J.) **(M. S. SANKLECHA, J.)**

Wadhwa