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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 541 OF 2014

DIT (Exemptions), Mumbai ..Appellant
Versus
Indian Machine Tools Manufacturers Association ..Respondent

Mr.Ashok Kotangle I/b. Padma Divakar or Appellant.
Mr.Atul Jasani for Respondent.

CORAM: M. S. SANKLECHA &
S.C. GUPTE, JJ.

DATE : 21 SEPTEMBER 2016

P.C. :

This appeal challenges an impugned order of the Tribunal dated 17 July 2013. The impugned order relates to assessment for Assessment Year 2007-08.

2 The Revenue urges the following substantial question of law for our consideration.

> “Whether, on the facts and in the circumstances of the case and in law, the Tribunal was justified in upholding the decision of the Id.CIT(A) to allow carry forward of deficit on account of excess expenditure and directing the Assessing Officer to allow carry forward of deficit on account of excess expenditure without appreciating the fact that this would have the effect of granting double benefit to the assessee, first as 'accumulation' of income u/s. 11(1)(a) of the Act in earlier years /

> current year and then as 'application' of income u/s 11(1)(a) of the Act, in the subsequent years which was legally not permissible?”

3 We find that the impugned order of the Tribunal has restored the issue to the Assessing Officer with a direction to decide the same in the light of the decision of this court in **CIT vs. Institute of Banking**[1]**.**

4 Mr.Kotangle, learned Counsel for the Revenue very fairly states that the issue raised herein stands concluded against the Revenue by the decision of this court in the decision of **Institute of Banking** (supra).

5. In the above view, the question, as proposed, does not give rise to any substantial question of law. Thus, not entertained. Appeal is dismissed.

(S.C. GUPTE, J.) **(M. S. SANKLECHA, J.)**

1 **264 ITR 110.**