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

INCOME TAX APPEAL NO. 881 OF 2014
WITH
INCOME TAX APPEAL NO. 870 OF 2014

The Commissioner of Income Tax-II .. Appellant
Kolhapur
v/s.

Jaysingpur Udgaon Sahakari Bank Ltd. ..Respondent

Mr. N.N. Singh for the appellant
None for the respondent

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

DATED : 15th OCTOBER, 2016.

P.C.

1. Income Tax Appeal No.870 of 2014 is not on Board. Upon mentioning, taken up for consideration along with Income Tax Appeal No.881 of 2014.

2. These two Appeals under Section 260-A of the Income Tax Act, 1961 (the Act) challenge a common order dated 5th August, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Years 2007-08 and 2008-09.

3. Both the appeals raise the following identical question of law for our consideration :-

> *"(i) Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in applying the decision of the Hon'ble Supreme Court in the case of Catholic Syrian Bank Ltd. Vs. Commissioner of Income Tax, reported in 343 ITR 270 (2012) holding that clauses (vii) and (via) of Section 36(1) are independent of each other, to the present case wherein no such issue is involved?*

4. The impugned order of the Tribunal has restored the issue to the Assessing Officer to adjudicate the issue afresh on the issue of applicability of decision of the Apex Court in ***Catholic Syrian Bank Ltd. Vs. Commissioner of Income Tax, 343 ITR 270*** to the present facts. This to be done after giving due opportunity to the assessee of being heard. The question as proposed does not arise from the impugned order of the Tribunal as the Tribunal has not itself held and / or applied the decision of the Apex Court in Catholic Syrian Bank Ltd. (supra), but merely restored the issue to the the Assessing Officer to pass a fresh order and to consider the applicability of the decision of the Apex Court.

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

6. Both the appeals are dismissed. No order as to costs.

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