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

INCOME TAX APPEAL NO. 791 OF 2014

DIT (Exemption), Mumbai .. Appellant

v/s. 7

St. Francis Industrial Training Institute .. Respondent

Ms. Padma Divakar for the appellant
Mr. Atul Jasani for the respondent

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

DATED : 15th NOVEMBER, 2016.

P.C.

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 17th September, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 2007-08.

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

(i) Whether on the facts and in the circumstances of the case and in law, the Tribunal was right in confirming the order of the CIT(A) to allow the claim of depreciation, relying on the decision

of the Bombay High Court in the case of Commissioner of Income Tax Vs. Institute of Banking Personnel Services, reported in 264 ITR 110 (Bom) ignoring the ratio of Hon'ble Supreme Court judgments in the case of Escorts Ltd. Vs. Union of India (199 ITR 43) wherein Hon'ble Supreme Court has held that double deduction cannot be presumed if the same is not specifically provided by law, in addition to normal deduction?

3. The impugned order of the Tribunal dismissed the Revenue's appeal before it by following the decision of this Court in ***Commissioner of Income Tax Vs. Institute of Banking Personnel Services, 264 ITR 110***.

4. Ms. Divakar, learned Counsel appearing for the Revenue very fairly states that the issue stands concluded by the decision of this Court in *Institute of Banking Personnel Services* (supra). Further, we find that the Apex Court decision in ***Escorts Ltd. Vs. Union of India 199 ITR 43*** being sought to be applied to the present facts was also the subject matter for consideration by this Court on an identical issue raised by the Revenue in Director of Income Tax (Exemption) Vs. M/s. G.D. Birla Medical Research and Educational Foundation being Income Tax Appeal Nos.2294 of 2013 and 2295 of 2013. This Court by order dated 1st February, 2016 dismissed both the appeals of the Revenue in

G.D. Birla Medical Research and Educational Foundation (supra). This was by relying upon the decision of this Court in ***DIT (Exemption) Vs. G.K.R. Charities, 32 Taxmann.com 208*** where identical issue as raised before us, namely the decision of the Apex Court in *Escorts Ltd.* (supra) was on consideration found inapplicable. Thus, the issue raised herein stands covered by the decision of this Court in *Institute of Banking* (supra).

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

6. Accordingly, the appeal is dismissed. No order as to costs.

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