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

INCOME TAX APPEAL NO. 883 OF 2014

The Commissioner of Income Tax (Central)
Pune .. Appellant
v/s.
M/s. Sonam Builders, Thane .. Respondent

Mr. Suresh Kumar a/w Ms. Samiksha Kanani for the appellant
Ms. Aasifa Khan for the respondent

CORAM : M.S. SANKLECHA &
S.C. GUPTE, J.J.
DATED : 15th OCTOBER, 2016.

P.C.

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 24th September, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 2008-09.

2. The Revenue has urged following 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 Ld. CIT(A)'s order of deleting an addition of Rs.1,45,76,156/- made on account of denial of assessee's claim of deduction u/s 80IB(10), without appreciating the findings of the Assessing Officer regarding violation of eligibility conditions prescribed for claim of deduction u/s 80IB(10) of the I.T. Act, 1961?*

3. Mr. Suresh Kumar, learned Counsel for the Revenue very fairly states that the issue as arising in this appeal stands concluded against the Revenue by the decision of this Court in ***Commissioner of Income Tax Vs. Brahma Associates, 333 ITR 289.*** We find that the impugned order had dismissed the Revenue's appeal before it by following the decision of this Court in *Brahma Associates* (supra).

4. Mr. Suresh Kumar, further points out that in ***Commissioner of Income Tax Vs. Sarkar Builders, 375 ITR 392***, the Apex Court has approved the view of this Court in *Brahma Associates* (supra). In fact it refers to its order dated 29th April, 2015 wherein the decisions of various High Courts following the judgment of Bombay High Court in *Brahma Associates* (supra) was upheld by it.

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

6. The appeal is dismissed. No order as to costs.

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