IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INCOME TAX APPEAL NO. 917 OF 2014

Commissioner of Income Tax, Central-II,
Mumbai .. Appellant
v/s.
M/s. Sunil Mantri Buildtech Pvt. Ltd. .. Respondent

WITH
INCOME TAX APPEAL NO. 957 OF 2014

Commissioner of Income Tax, Central-II,
Mumbai .. Appellant
v/s.
M/s. Sunil Mantri Griha Nirman Pvt. Ltd. .. Respondent

Mr. Suresh Kumar a/w Ms. Padma Divakar for the appellant
None for the respondent

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

DATED : 29th NOVEMBER, 2016.

P.C.

1. These two Appeals under Section 260-A of the Income Tax Act, 1961 (the Act) challenge the common impugned order dated 14th November, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order being challenged in the two appeals are in respect of Assessment Years 2008-09 and 2009-10.

2. Mr. Suresh Kumar, learned Counsel for the Revenue urges only the following common question of law for our consideration in both the

appeals :-

> *(i) Whether on the facts and circumstances of the case and in law, the Tribunal was justified in confirming the order of CIT(A) that the provisions of section 2(22)(e) of the Income Tax Act, 1961 is not applicable in the case of assessee company without appreciating the fact that the deemed dividend has to be taxed on advances or loan to any concern as defined in Explanation 3(a) to section 2(22)(e) of the Act, in which common shareholder is a member or a partner and such a shareholder has a substantial interest as defined in Explanation 3(b) of section 2(22)(e) of the Act?*

3. Mr. Suresh Kumar, learned Counsel appearing for the Revenue very fairly states that the question as framed by the Revenue stands concluded against the Revenue and in favour of the respondent assessee by the decision of this Court in ***Commissioner of Income Tax Vs. Universal Medicare Pvt. Ltd. 324 ITR 263*** and ***Commissioner of Income Tax Vs. Impact Containers (P) Ltd. (2014) 48 taxmann.com 294 (Bom)***. In the above view, the question (i) does not give rise to any substantial question of law. Thus, not entertained.

4. In the above view, both the appeals are dismissed. No order as to costs.

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