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

INCOME TAX APPEAL NO.1077 OF 2014
AND
INCOME TAX APPEAL NO.1086 OF 2014

The Commissioner of Income Tax-12 .. Appellant

v/s.

M/s. Tip Top Typography .. Respondent

Mr. P.C. Chhotaray for the appellant
Mr. R. Murlidharan a/w B.G. Yewale i/b Rajesh Shah & Co. for the respondent

CORAM : M.S. SANKLECHA &
M.S. SONAK, J.J.

DATED : 9th DECEMBER, 2016.

P.C.

1. At the request of the parties, the appeal itself is being disposed of at the stage of admission.

2. These two Appeals under Section 260-A of the Income Tax Act, 1961 (the Act) challenge the common order dated 27th November, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). The common impugned order is in respect of Assessment Years 2007-08 and 2008-09.

3. The Revenue urges the following questions 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 not accepting the annual value determined by the Assessing Officer under Section 23(1)(a) of the Act?

(ii) Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in holding that the annual value of the property specified in Section 23(1)(a) is the municipal rateable value or the actual rent received whichever is higher and not the annual value determined on the basis of comparable instances as adopted by the Assessing Officer through the property under consideration is not covered by the Rent Control Act?"

4. It is an agreed position between the parties that the issue arising in the present case would stand governed by the decision of this Court in respondent assessee's case relating to Assessment Year 2005-06 decided in ***Commissioner of Income Tax-12 Vs. Tip Top Typography, 368 ITR 330***.

5. In the above view, the impugned order of the Tribunal is quashed

and set aside and restored to the Assessing Officer to decide the *lis* between the parties in respect of the questions raised herein. We direct the Assessing Officer to decide the dispute in accordance with the principles led down by this Court in *Tip Top Typography* (supra).

6. Both the appeals are disposed of in the above terms. No order as to costs.

(M.S. SONAK, J.) **(M.S. SANKLECHA, J.)**