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

INCOME TAX APPEAL NO. 1052 OF 2014

The Commissioner of Income Tax-3 .. Appellant

v/s.

M/s. TCFC Finance Ltd. .. Respondent

Mr. Suresh Kumar a/w Ms. Samkisha Kanani for the appellant
Mr. Sameer Dalal for the respondent

CORAM : M.S. SANKLECHA &
MRS. SWAPNA JOSHI, J.J.

DATED : 19th OCTOBER, 2016.

P.C.

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 19th December, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 2009-10.

2. The Revenue has urged only the following question of law :-

"Whether on the facts and circumstances of the case and in law, the Tribunal was justified in directing the Assessing Officer to grant set off of non existent loss in reality treated to be Speculation Loss of Rs.22,83,15,459/- against the profit on sale

of shares of Rs.7,85,32,903/- without appreciating the fact that the set off of speculation loss against profits and gains of business or profession is against profits and gains of business or profession is against the grain of Section 73 of the I.T. Act, 1961?

3. The impugned order allowed the respondent assessee's appeal on the above issue by following the decision of this Court in ***Commissioner of Income Tax Vs. Lokmat Newspapers (P) Ltd. 322 ITR 43***. In the above view, the question as formulated herein does not give rise to any substantial question of law. Thus, not entertained.

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

(MRS. SWAPNA JOSHI, J.) **(M.S. SANKLECHA, J.)**