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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.2115 OF 2013

The Commissioner of Income Tax-1 ..Appellant
Versus
Jsons Foundries Pvt. Ltd. ..Respondent

....
Mr. N. N. Singh for the Appellant.
....

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

DATE : 8TH MARCH, 2016

P.C.:

1. This Appeal filed by the Revenue under Section 260A of the Income Tax Act, 1961 (the "Act") challenges the order dated 30th January, 2013 passed by the Income Tax Appellate Tribunal ("Tribunal"). The impugned order relates to Assessment Year 2007-08.

2. Mr. Singh, learned counsel appearing for the revenue only urges the following two substantial questions of law for our consideration:-

> *"(a) Whether on the facts and in the circumstances of the case and in law, the ITAT was justified in allowing depreciation at 80% on the cost of foundation, which is civil construction work, when in fact earth work and foundation*

is nothing but civil work on which depreciation should be allowed @ 10%?

(b) Whether on the facts and in the circumstances of the case and in law the ITAT was justified in allowing depreciation @ 80% on installation and commissioning work of windmill when in fact installation and commissioning work constitutes block of 'Plant and Machinary' on which depreciation is allowable @ 15%?"

3. Mr. Singh, learned counsel for the revenue very fairly states that both these questions stands decided by the decision of this Court in Income ***Tax Appeal No.2125 of 2013 (CIT V/s. CTR Manufacturing Industries Ltd.***) decided on 1st March, 2016 against the revenue and in favour of the respondent-assessee.

4. In the above view, questions as posed in the present appeal do not give rise to any substantial questions of law. Thus, not entertained.

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

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

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