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

INCOME TAX APPEAL NO. 2343 OF 2013

The Commissioner of Income Tax -5
Mumbai .. Appellant
v/s.
M/s. Air India Ltd. Mumbai ..Respondent

Mr. Tejveer Singh for the appellant
Mr. Ashok Patil for the respondent

CORAM : M.S. SANKLECHA &
B.P. COLABAWALLA, J.J.
DATED : 6th JANUARY, 2016.

P.C.

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 8th February, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 1998-99.

2. This appeal raises 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 has erred in dismissing the M.As filed by the Department ?
(ii) Whether on the facts and in the circumstances of the case and in law, the Tribunal has erred in dismissing the M.As filed by the Department without appreciating the decision of the

Tribunal in the case of DCIT Vs. Airport Authority of India (2013) 86 DTR 222 (Delhi-Tribunal), wherein it has been held that the order of the Tribunal dismissing Revenue appeal for want of COD approval was an order under rule 12 of ITAT Rules 1963 r.w.s. 255(5) and not an order as contemplated u/s 254(1) and therefore the limitation u/s 254(2) is not applicable to the said order?

3. It is an agreed position between the parties that the above questions were also raised by the Revenue in Income Tax Appeal No.2323 of 2013 arising from the same impugned order dated 8th February, 2013. This Court by an order dated 6th January, 2016 did not entertain the above questions as they did not give rise to any substantial questions of law. Therefore, for the reasons mentioned in the order dated 6th January, 2016 in Income Tax Appeal No.2323 of 2013 passed by this Court, the questions as formulated do not give rise to any substantial questions of law. Thus, the above questions are not entertained.

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

(B.P. COLABAWALLA, J.) **(M.S. SANKLECHA, J.)**