Sbw

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.1073 OF 2014

The Commissioner of Income Tax-12 ..Appellant
Versus
Smt. Smita Manoj Modi ..Respondent

....
Mr. P. C. Chhotaray for the Appellant.
Mr. Sameer Dalal i/b. Vipul Joshi for the Respondent.
....

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

DATE : 22nd NOVEMBER, 2016

P.C.:

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 22nd January, 2014 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 2007-08.

2. This appeal raises the following substantial question of law for our consideration :-

"Whether on the facts and in the circumstance of the case and in law, the Tribunal was justified in not upholding the order of the Assessing Officer where the Assessing Officer had held that the

income shown as long term capital gains by the assessee should be taxed under the head "profits and Gains of Business and Profession?"

3. Mr. P. C. Chhotaray, the learned counsel appearing for the Revenue states that the issue raised herein stands covered against the Revenue and in favour of the assessee by CBDT Circular No.6 of 2016 dated 29th February, 2016.

4. In the above view the question as proposed by the Revenue does not give rise to any substantial question of law. Hence not entertained.

5. Appeal is disposed of in above terms. No order as to costs.

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

Wadhwa