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

INCOME TAX APPEAL NO. 2334 OF 2013

The Commissioner of Income Tax -I
Pune .. Appellant

v/s.

Adler Mediequip Pvt. Ltd., Pune ..Respondent

Mr. Suresh Kumar i/b Vipul Bajpayee for the appellant
Mr. M.C. Naniwadekar i/b Ruturaj H. Gurjar 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 20th February, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 2003-04.

2. The Revenue has urged the following question of law for our consideration :-

> *(i) Whether on the facts and in the circumstances of the case and in law, the Tribunal did not err in holding that the*

difference between the Deferred Sales Tax amount and the Net Present Value of the future liability under the scheme of Net Present Value Scheme of the Government of Maharashtra which was paid by the assessee could not be regarded as remission or cessation of liability so as to attract the provisions of section 41(1) of the Income Tax Act, 1961 but was a capital receipt not chargeable to tax?

3. Mr. Suresh Kumar, learned Counsel for the Revenue very fairly states that the issue arising in this appeal stands concluded against the Revenue not only by the decision of the Special Bench of the Tribunal in ***Sulzer India Ltd. 138 ITD 1*** as recorded in the impugned order of the Tribunal but also by this Court in **Commissioner of Income Tax Vs. Sulzer India Ltd. & Ors. 369 ITR 717,** upholding the view of the Special Bench of the Tribunal in *Sulzer India Ltd.*. Accordingly, the questions as formulated being covered in favour of the respondent assessee by the decision of this Court in *Sulzer India Ltd*. (Supra), no substantial question of law arises for consideration.

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

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