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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.2449 OF 2013
WITH
INCOME TAX APPEAL NO.2414 OF 2013
WITH
INCOME TAX APPEAL NO.2415 OF 2013

The Commissioner of Income Tax
Central-III, Mumbai. ..Appellant
Versus
M/s. Prime Developers ..Respondents

....
Mr. Ashok Kotangale i/b. Ms. Padma Divakar for the Appellant.
Mr. J. D. Mistri, Senior Counsel, a/w Mr. Atul Jasani for the Respondents.
....

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

DATE : 18th JULY, 2016

P.C.:

1. These three Appeals under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the common impugned order dated 22nd March, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). The common impugned order is in respect of Assessment Years 2004-05, 2005-06, 2006-07 and 2007-08. These three appeals are filed in respect of A.Y. 2005-06, 2006-07 and 2007-08 while Income Tax Appeal No.2452 of 2013 has been filed from the A.Y. 2004-05.

2. The common identical questions raised for our consideration in all

the three appeals are as under:-

> *"(i) Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in directing the Assessing Officer to work out the taxable profits of the Project 'Prime Mall' by adopting net profit of 17.08% the total sales?*
>
> *(ii) Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in directing the Assessing Officer to allow deduction towards remuneration and interest, even in case of estimated net profit?"*

3. The aforesaid two questions had also been raised by the Revenue in its appeal being Income Tax Appeal No.2452 of 2013. We have today by separate order dismissed the Revenue's appeal being Income Tax Appeal No.2452 of 2013 relating to A.Y. 2004-05 from the common impugned order dated 22nd March, 2013. It is an agreed position between the parties that for the reasons stated in our order passed today in respect of A.Y. 2004-05 being ITA No.2452 of 2013 would govern the facts of these three appeals. Accordingly for the reasons indicated in our order in ITA No.2452 of 2013 the question as framed does not give rise to any substantial question of law. Thus not entertained.

4. All these Appeals are dismissed. No order as to costs.

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