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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.2506 OF 2013

The Director of Income Tax (Exemption) ..Appellant
Versus
M/s. Maharashtra Industrial Development Corporation ..Respondent

....
Mr. A. R. Malhotra a/w N.A. Kazi for the Appellant.
Dr. P. C. Tripathi i/b. Mr. Mihir Naniwadekar for the Respondent.
....

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

DATE : 7TH JUNE, 2016

P.C.:

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 15th March, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 2008-09.

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

> *"Whether on the facts and circumstances of the case and in law, the Tribunal was right in allowing the claim of the assessee for carry forward of the said deficit, ignoring the fact that there was no express provision in the I.T. Act, 1961 permitting allowance of such claim?"*

3. The impugned order of the Tribunal dismissed the Revenue's appeal by holding that the respondent-assessee is entitled to carry forward its deficit inspite of it being a Trust. This while negating the stand of the Revenue that such allowance would result in double deduction. The impugned order of the Tribunal in upholding the order of the Commissioner of Income Tax (Appeals) followed the decision of this Court in ***CIT v/s. Institute of Banking Personnel Selection, 264 ITR 110*** wherein it is held that in case of charitable trust whose income is exempt under Section 11 of the Act, the excess expenditure in the earlier years can be carried forward for being adjusted in the subsequent Assessment years. Thus no grievance can be made as the impugned order only follows the order of this Court. Moreover no distinguishing features have been pointed out in the present facts which would warrant taking a different view from that taken by us in Institute of Banking Personnel Selection (supra).

4. Thus, the question as framed does not give rise to any substantial question of law as it is covered by the order of this Court in Institute of Banking Personnel Selection (supra). Thus, not entertained.

5. Accordingly, Appeal is dismissed. No order as to costs.

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

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