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

INCOME TAX REFERENCE NO.37 OF 2000

Smt. Padma R. Ambani .. Applicant

v/s.

The Commissioner of Income-Tax
City-VI, Mumbai .. Respondent

Mr. J.D. Mistri, Senior Counsel a/w P.C. Tripathi i/b Raj Darak for the applicant
None for the respondent

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

DATED : 5th AUGUST, 2016.

P.C.

1. This Reference under Section 256(1) of the Income Tax Act, 1961 (the Act) for A.Y. 1985-86 seeks our opinion on the following substantial questions of law :-

> (i) *Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the Annual letting value of 1/3rd share in the self-occupied property at Vimal House, Ahmedabad has to be the sum equivalent to the standard rent under the Bombay Rent Control Act and not the Municipal Annual Rateable value in computing the property income u/s 23 of the I.T. Act, 1961?*

2. Mr. Mistri, learned Senior Counsel appearing for the applicant assessee invites our attention to our order dated 21st July, 2016 passed in Income Tax Reference No.267 of 1999 *(Ramniklal H. Ambani Vs. Commissioner of Income Tax, City-VI, Bombay)*. In the above case, an identical question as raised herein is question no. (i) therein. The question no.(i) herein was disposed of in the following terms :-

> *5. "This question as raised for our opinion consists of two parts the first part is in respect of fixing the ALV on the basis of the standard rent determined as per the provisions of the Rent Act. On this issue, we have already held in Vimal Ambani (supra) that the standard rent as determined under the Rent Act is the ceiling / upper limit in fixing the ALV. Fair rent is to be the basis of fixing the ALV and the fair rent may not necessarily be the standard rent. Therefore the first part of this question is answered in the negative i.e. in favour of the assessee and against the Revenue.*
>
> *So far as the second part of the question is concerned viz. should the ALV be determined on the basis of rateable value ? We would clarify as set out in the above guidelines that the fixation of ALV would be on the basis of fair rent and the rateable value fixed under Corporation Act may not be the sole / conclusive basis for determining the fair rent".*

3. The Reference is, therefore, disposed of in the above terms i.e.

the issue with regard to standard rent is answered in the negative i.e. in favour of the assessee and against the Revenue with the clarification that the fixation of annual letting value would be on the basis of fair rent and the rateable value fixed under the Corporation Act may not be the sole / conclusive basis to determine the fair rent.

4. The Reference is disposed of in the above terms. No order as to costs.

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