IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.2315 OF 2013

The Commissioner of Income Tax,
Central IV, Mumbai 400 020 ... Appellant
v/s
M/s Emgee Foils Pvt.Ltd.,
Mumbai 400 007 ... Respondent

Mr Tejveer Singh for Appellant.
None for Respondent.

CORAM: M.S. SANKLECHA AND B.P. COLABAWALLA JJ.

DATE : 16TH FEBRUARY, 2016

P.C.:-

1. This Appeal challenges the order dated 30th April 2013 passed by the Income Tax Appellate Tribunal (Tribunal) confirming the deletion of addition made under section 2(22)(e) of the Income Tax Act 1961 (the Act). The Assessment Years are 2004-05 and 2005-06. The present appeal related to AY 2005-06.

2. Mr Tejveer Singh, the learned counsel for the Revenue urges only the following question of law for our

consideration :-

> "Whether on the facts and circumstances of the case, the Tribunal was justified in deleting the addition made u/s 68, without taking into consideration that the assessee is a beneficiary of the accommodation entries provided by M/s Epsilon Industries Ltd.?"

3. Mr Tejveer Singh, learned counsel for the Appellant – Revenue very fairly states that the Revenue's appeal from the impugned order relating to AY 2004-05 being Income Tax Appeal No.2282 of 2013 was not entertained by this Court by its order dated 12th January 2016. Further, he invites our attention to para 10 of the order which reads as under :-

> "10. The grounds for the assessment year 2005-06, both in assessee's appeal as well as in Revenue's appeal are similar to those of assessment year 2004-05. The findings of the learned Commissioner (Appeals) in assessment year 2005-06 are similar. Therefore, the finding given in the aforesaid appeals for assessment year 2004-05 will apply mutatis mutandis in this year also. Accordingly, assessee's appeal is allowed and Revenue's appeal is dismissed."

4. In the above view, it is very fairly submitted by Mr Tejveer Singh that the present appeal should meet the same fate as Income Tax Appeal No.2282 of 2013 filed by the Revenue from the common impugned order relating to AY 2004-05.

5. In the above, view, the question as framed does not give rise to any substantial question of law. Thus, not entertained.

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

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

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