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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**INCOME TAX APPEAL NO.2182 OF 2013**

Tata Autocomp Systems Limited ..Appellant
*Versus*
Assistant Commissioner of Income Tax(2)(3) ..Respondent

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Mr. Atul Jasani for the Appellant.
Mr. Suresh Kumar for the Respondent.

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

**DATE : 18TH APRIL, 2016**

P.C.:

1. This Appeal under Section 260A of the Income Tax Act, 1961 (the Act) challenges the order dated 12th June, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 2008-09.

2. The Questions proposed by the appellant for our consideration are as under:-

> *"(i) Whether on the facts and in the circumstances of the case, the Tribunal was justified in confirming the disallowance made under Section 14A by the Assessing Officer?*

*(ii) Whether the investments which are made in subsidiary or joint venture companies to promote their business in auto component industry and not with a view to earn capital appreciation or dividend income, are to be considered while making the computation of disallowance under Rule 8D(2)(ii) and (iii) for the purpose of Section 14A?"*

3. We are informed that after this appeal was filed the appellant had filed the Rectification Application under Section 254(2) of the Act in respect of the order dated 12th June, 2013 passed by the Tribunal. The Tribunal by order dated 5th March, 2014 has allowed the Rectification Application filed by the Revenue and recalled its order dated 12th June, 2013. Although the order dated 5th March, 2014 recalls the order with specific issue relating Section 14A of the Act, the fact is that the order dated 12th June, 2013 stands withdrawn by the order dated 5th March, 2014 or in any event the order dated 12th June, 2013 would stand modified and/or completed only when a final order is passed on the appeal in respect of the issue which is now pending before the Tribunal. In the circumstances, the appellant is allowed to withdraw the present appeal with liberty to file a fresh appeal as and when their appeal consequent to the order dated 5th March, 2015 recalling the order dated 12th June, 2013 is heard and finally disposed of. At that time it would be

open to the appellant to raise all questions of law including the one raised herein. Thus we would have only one appeal from the order of the Tribunal for assessment year 2008-09. This order is being passed in the peculiar facts of this case as the impugned order dated 12th June, 2013 is withdrawn by the Tribunal.

4. In the above view, the appeal is dismissed as withdrawn with the aforesaid directions. No order as to costs.

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

Wadhwa