IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 2332 OF 2013

The Commissioner of Income Tax-15,
Mumbai 400 020 ... Appellant
v/s
M/s Sai Shraddha Construction,
Mumbai 400 088 ... Respondent

Mr A.R. Malhotra with Mr N.A. Kazi for Appellant.

Mr S.C. Tiwari with Ms Rutuja Pawar for Respondent.

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

DATE : 27th JANUARY, 2016

P.C.:-

1. This Appeal by the Revenue under section 260A of the Income Tax Act 1961 (the Act) challenges an order dated 29th May 2013 passed by the Income Tax Appellate Tribunal, Mumbai. The present Appeal relates to the impugned order of the Tribunal for the AY 2008-09.

2. Mr Malhotra, learned counsel for the Revenue has re-framed the questions of law. At the hearing, Mr Malhotra

presses only the following questions of law for our consideration :-

> "(A) Whether on the facts and in the circumstance of the case and in law, the Tribunal was justified in holding that the assessee has not violated the provisions of section 80IB(10) without taking into consideration the clinching evidence gathered by the survey team which had found that there are many residential units in the building admeasuring more than stipulated limit of 1000 sq.ft. after including the exclusive terrace ?"
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> "(B) Whether on the facts and in the circumstance of the case and in law, the Tribunal was justified in upholding the order of the CIT(A) regarding project completion method ?"

3. So far as the above two questions are concerned, Mr Malhotra, learned counsel for the Revenue very fairly states that the impugned order of the Tribunal follows its earlier order dated 21st November 2012 passed in respect of the same Respondent for AY 2005-06 to 2007-08 in respect of the above issues. Being aggrieved, the Revenue had preferred Appeals against the common order dated 21st November 2012 of the Tribunal for the AYs 2005-06 and 2006-07 raising both the aforesaid questions in their Income Tax Appeal Nos.1920 of 2013 and 1900 of 2013. This Court dismissed both the above

appeals by order dated 18th January 2016 as the aforesaid two questions do not give rise to any substantial questions of law.

4. Accordingly, for the reasons indicated in our order dated 18th January 2016 in Income Tax Appeal Nos.1920 and 1900 of 2013 the questions (A) and (B) as proposed are not entertained as they do not raise any substantial questions of law. Therefore, questions (A) and (B) as framed are not entertained.

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

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