IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 246 OF 2014

The Commissioner of Income Tax-I …Appellant
v/s.
DSM India Private Limited …Respondent

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Mr. Vipul Bajpayee,for the Appellant.
None for the Respondent

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CORAM : M.S. SANKLECHA &
M.S. KARNIK, JJ.

DATED : 15th July, 2016

P.C :

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 10th June, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 2007-2008.

2. The Revenue urges the following question of law our consideration:-

(i) Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified granting further extension of 180 days for say i.e. upto 10.12.2013 which is

in excess of the limitation of 365 days prescribed in the third proviso to sub-section (2A) of Section 254 of the Income Tax Act, 1961?

3. The grievance of the appellant is that in terms of the third proviso to Section 254 (2A) of the Act, the Tribunal has no power to extend the stay of demand in the pending appeals beyond the period of 365 days.

4. Mr. Bajpayee, learned counsel for the Revenue does not dispute the fact that the issue raised herein stands concluded against the Revenue by the orders of this court in ***"Narang overseas (P) Ltd. Vs. ITAT, (2007) 295 ITR 22", "Commissioner of Income Tax Vs. Ronuk Industries Ltd., (2011)333 ITR 99(Bom)."*** and an unreported decision in "***Commissioner of Income Tax Vs. Tata Teleservices (Maharashtra) Ltd"*** (Writ Petition Lodging No. 3437 of 2015 and other connected matters) decided on 16th December, 2015.

5. We find that this Court has consistently taken a view that the Tribunal has power to extend the stay even after the substituted third proviso to Section 254(2A) of the Act was introduced with effect from 1st October 2008 by Finance Act, 2008.

6. In the above view, as the question as framed is concluded by order of this court no substantial question of law arises. Thus, not entertained.

7. Appeal is dismissed.

(M.S. KARNIK J.) **(M.S. SANKLECHA J.)**