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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.2505 OF 2013

Commissioner of Income Tax 6 ..Appellant
Versus
M/s. L'oreal India Pvt.Ltd. ..Respondent

....
Mr. Suresh Kumar a/w Ms. Samiksha Kanani for the Appellant.
Mr. Paras Savla a/w Harsh R. Shah for the Respondent.
....

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

DATE : 7TH JUNE, 2016

P.C.:

1. This Appeal under Section 260-A 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 2005-06.

2. Mr. Suresh Kumar, the learned counsel for the Revenue urges the following question of law for our consideration :-

> *"Whether on the facts and in the circumstances of the case and in law, the Income Tax Appellate Tribunal was correct in holding that the entire expenditure incurred on advertisement*

expenses was revenue in nature, without appreciating the fact that at least part of the expenditure was laid out for brand building of the assessee and its foreign parent company and thus the benefit derived from such outlay being of enduring nature benefits going beyond the previous year in which is was incurred?

3. Mr. Suresh Kumar, the learned counsel for the Revenue very fairly states that an identical issue arose before the Tribunal in respect of the respondent-assessee for Assessment Years 2003-04 and 2004-05. The Revenue accepted the order of the Tribunal in the A.Y. 2003-04 by not preferring any appeal to this Court. However, in respect of the order passed by the Tribunal for the A.Y. 2004-05 the Revenue did prefer an appeal to this Court for Income Tax Appeal No.1091 of 2013. This Court by an order dated 11*th* March, 2015 dismissed the Revenue's appeal No.1091 of 2013 on the ground that the Revenue has accepted the finding of the Tribunal with regard to the aforesaid issues for A.Y. 2003-04, thus no appeal from order of the Tribunal for A.Y. 2004-05 is sustainable as it does not give rise to any substantial question of law.

4. Mr. Suresh Kumar, the learned counsel for the Revenue very fairly states that there are no distinguishing features on record which would

warrant taking a different view from than taken by this Court in its order dated 11th March, 2015 in Income Tax Appeal No.1091 of 2013.

5. In the above view, the question as framed for our consideration does not give rise to any substantial question of law. Hence, appeal is dismissed.

6. No order as to costs.

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

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