IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 2340 OF 2013

The Commissioner of Income Tax-2 .. Appellant

v/s.

M/s. IndusInd Bank Ltd. ..Respondent

Mr. Suresh Kumar for the appellant
Mr. Sanjiv M. Shah for respondent

CORAM : M.S. SANKLECHA &
B.P. COLABAWALLA, J.J.

DATED : 6th JANUARY, 2016.

P.C.

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 3rd July, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 2002-03.

2. This appeal raises the following questions of law for our consideration :-

(i) Whether on the facts and in this circumstances of the cases, the Tribunal was correct in law in restoring back the issue to file of the Assessing Officer to adjudicate afresh the

disallowance made under section 14A of the Income Tax Act, 1961, in accordance with the ratio laid down by the Hon'ble Jurisdictional High Court in the case of Godrej & Boyce Mfg. Co. Ltd. (2010) (328 ITR 81) which has not been accepted by the Income Tax department and SLP No. 12872 of 2011 has been filed before the Hon'ble Apex Court ?

(ii) Whether on the facts and circumstances of the case, the Tribunal was correct in law in deleting the addition of Rs.8,60,84,194/- made on account of accrued interest, by accepting method of accounting adopted by the assessee without appreciating that the assessee was regularly following mercantile system of accounting u/s 145(1) of the Income Tax Act, 1961 and therefore, interest earned during the year was chargeable on tax on accrual basis?

3. So far as question (i) is concerned, we find that the impugned order has restored the issue to the Assessing Officer to decide the dis-allowance made under Section 14A of the Act in the light of the decision of this Court in *Godrej and Boyce Mfg. Co. Ltd. Vs. D CIT 328, ITR 81*. Nothing has been shown to us as to how the impugned order on the above issue would give rise to substantial question of law. In fact, the impugned order has merely restored the issue to the Assessing Officer to determine the dis-allowance under Section 14A of the Act in the light of the decision of this Court in Godrej and Boyce Mfg. Co. Ltd.

(Supra). In view of the above, question (i) as formulated does not give rise to any substantial question of law.

4. So far question (ii) is concerned, Mr. Suresh Kumar, learned Counsel for the Revenue very fairly states that an identical question was raised by the Revenue before this Court in Income Tax Appeal Nos. 1125 of 2012 from the order of the Tribunal relating to Assessment Year 2003-04. However, this Court by an order dated 9th October, 2013, dismissed the Revenue's above Appeal being No.1125 of 2012 while recording the fact that the earlier appeals filed by the Revenue on identical question for the Assessment Years 2000-01, 2001-02 and 2004-05 have also been dismissed by this Court. In view of the above, the question (ii) as formulated does not give rise to any substantial question of law.

5. Accordingly, the appeal is dismissed. No order as to costs.

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