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

INCOME TAX APPEAL NO. 614 OF 2014

The Commissioner of Income Tax-V,
Pune .. Appellant
v/s.
Pharande Developers .. Respondent

Mr. Tejveer Singh for the appellant
None for the respondent

CORAM : M.S. SANKLECHA &
G.S.KULKARNI, J.J.
DATED : 5th OCTOBER, 2016.

P.C.

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 25th June, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 2005-06.

2. The Revenue has urged following questions of law for our consideration :-

(i) Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in granting the assessee's claim of deduction u/s 80IB(10) of the I.T. Act, 1961 by not including terrace and canopy as part of residential unit, when the same were used exclusively for respective units and not part of common or shared area with others?

(ii) Whether on the facts and circumstances of the case and in law, the Tribunal erred or not in holding that the amended provisions u/s 80IB(10)(d) would not be applicable w.e.f. 01.04.2005 as the plan was approved by Municipal Authorities and construction was commenced prior to such date?

3. Re. question nos. (i) and (ii) :-

(a) Mr. Tejveer Singh, learned Counsel appearing for the appellant Revenue very fairly states that the issues arising herein stands concluded against the Revenue and in favour of the respondent assessee by the decision of this Court in ***Commissioner of Income Tax Vs. Happy Home Enterprise, 372 ITR 01*** and the order dated 24th April, 2015 passed in Revenue's Appeal being Income Tax Appeal No.1628 of 2013 (***CIT Vs. M/s. Raviraj Kothari Punjabi Associates***).

(b) In the above view, questions (i) and (ii) as raised by the Revenue do not give rise to any substantial question of law. Thus, not entertained.

4. The Appeal is dismissed. No order as to costs.

(G.S. KULKARNI, J.) **(M.S. SANKLECHA, J.)**