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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 564 OF 2014

The Commissioner of Income Tax-V, Pune ..Appellant
Versus
Shri Ghanshyam J. Sukhwani (HUF) ..Respondent

Mr.Tejveer Singh for Appellant.
Mr.Neelabh Shreesh I/b.Mihir Naniwadekar for Respondent.

CORAM: M. S. SANKLECHA &
S.C. GUPTE, JJ.

DATE : 21 SEPTEMBER 2016

P.C. :

This appeal under Section 260A of the Income Tax Act, 1961 (Act) challenges the order dated 23 July 2013 passed by the Income Tax Appellate Tribunal (Tribunal). The impugned order relates to assessment for Assessment Year 2006-07.

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

> "Whether on the facts and circumstances of the case and in law, the Hon'ble Tribunal was justified in allowing the deduction u/s 80IB (10) when the Housing Project consisted of commercial area exceeding the maximum area of 2000 sq.ft. as prescribed under section 80IB(10) of the Income tax Act, 1961.?"

3 Mr.Tejveer Singh, learned Counsel appearing for the Revenue very fairly states that the question, as proposed by the Revenue, now stands settled against the Revenue by the decision of the Apex Court in **CIT vs. M/s. Sarkar Builders**[1]**.** This in view of the fact that admittedly the project in respect of which the benefit of Section 80IB(10) of the Act is being claimed was approved / commenced prior to 1 April 2005.

4 In the above view, the question, as proposed by the Revenue, does not give rise to any substantial question of law. Thus, not entertained.

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

(S.C. GUPTE, J.) **(M. S. SANKLECHA, J.)**

1 **375 ITR 392.**