IN THE HIGH COURT OF BOMBAY AT GOA

TAX APPEAL NO. 40 OF 2016

THE COMMISSIONER OF INCOME TAX. ... Appellant
Versus
KALA MINES AND MINERALS. ... Respondent

Ms. Susan Linhares, Jr. Standing Counsel for the Appellant.
Mr. Sudin Usgaonkar, Senior Advocate with Mr. Pramod Vaidya, Advocate for the Respondent.

Coram:- F. M. REIS &
NUTAN D. SARDESSAI, JJ.

Date:- 21st February, 2017

P.C.:

Heard Ms. Susan Linhares, learned Junior Standing Counsel appearing for the Appellant and Shri Sudin Usgaonkar, learned Senior Counsel appearing for the Respondent.

2. The challenge in the above appeal is essentially the allowance of a deduction towards bad debt sought by the Respondent assessee. It is the contention of the learned Jr. Standing Counsel appearing for the Appellant that the Tribunal was not justified to recognise such deduction as a bad debt/business loss as a recovery was initiated by the respondent. The learned Counsel further pointed out that the learned Tribunal has essentially accepted such contention of the Respondent/Assesee though proceedings were initiated by the

Respondent for recovery of the said amount before the Civil Court. Learned Senior Counsel for the respondent however pointed out that, in the meanwhile, the suit has been dismissed and even an attempt to refer the matter to the Arbitrator has already been disposed of and an award has been passed rejecting the claim of the Respondent/Assessee. Learned Senior Counsel has also placed on record the Judgment of this Court as well as the award of the learned Arbitrator. It is further pointed out that the Respondent/Assessee has not preferred an appeal or challenged the said Judgment. It is pointed out that, in the meanwhile proceedings before the Arbitrator have concluded and the claim of the Respondent/Assessee has been rejected. Mr. Usgaonkar, learned Senior Counsel appearing for the Respondent further submits that they have no dispute to the award passed by the Arbitrator. The learned Counsel appearing for the Appellant as such pointed out that the grounds on which the Appellant/Revenue was refusing to allow the deduction claimed by the Respondent assessee no longer survives in view of such award passed by the learned Arbitrator.

3. In such circumstances, as the learned Counsel appearing for the Appellant fairly accepts the position that such ground no longer subsists, we find that there is no infirmity in the impugned orders passed by the learned Tribunal. Hence, there are no substantial questions of law which arise for consideration. The

appeal stands, accordingly, rejected.

NUTAN D. SARDESSAI, J. F. M. REIS, J.

msr