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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INCOME TAX APPEAL NO.352 OF 2015

The Commissioner of Income Tax (Central) – 4) … Appellant
Vs.
M/s. Walchandnagar Industries Ltd. … Respondent

Mr. N.C. Mohanty for the Appellant.
Ms. Vasanti B. Patel for the Respondent.

CORAM : A.S. OKA &
A.K. MENON, JJ.

DATE : 1st NOVEMBER, 2017

P.C.

1 Heard the learned counsel appearing for the appellant – Revenue. He states that the challenge in this Appeal to the judgment and order dated 21st August, 2014 made by the Income Tax Appellate Tribunal is confined to the finding recorded in paragraph 7. His submission is that on facts, the decision of the Apex Court in the case of *Commissioner of Income-Tax, Delhi Vs. Woodward Governor India (P.) Ltd. (2009) 179 Taxman 326 (SC)* can be distinguished. However, he fairly pointed out the decision of this Court dated 1st October, 2016 in Income-Tax Appeal No.278 of 2014 (Commissioner of Income-Tax-16, Mumbai Vs. M/s. D. Chetan & Co.).

2 The substantial question of law pressed into service is Question A which read thus :-

> "Whether, on the facts and in the circumstances of the case and in law, the ITAT is justified in allowing the marked to market loss of Rs.2,28,01,707/- as business expenditure under Section 37(1) of Income Tax Act, 1961."

3 We have perused the said decision of this Court in the case of Commissioner of Income-Tax-16, Mumbai Vs. M/s. D. Chetan & Co. The same question was considered by the Division Bench and answered against the Appellant – Revenue. As of today, the said decision has attained finality.

4 Hence, no substantial question of law arises. There is no merit in the Appeal and the same is accordingly dismissed.

(A.K. MENON, J) **(A.S. OKA, J)**