IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDITION

INCOME TAX APPEAL NO.1377 OF 2014

Dena Bank ... **Appellant**
V/s.
Asst. CIT-2(3) ... **Respondent**

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Mrs.A.Vissanji with Mr.Sudhir J.Mehta, Advocate for the Appellant.

Mr.Suresh Kumar with Ms.Samiksha, Advocate for the Respondent.

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CORAM : S.V.GANGAPURWALA & A.M.BADAR JJ.

DATED : 12th July 2017.

P.C.

1 The present Appeal pertains to the Assessment year 2007-08. Mrs.Vissanji, the learned counsel for the Appellant submits that the present Appeal is limited to the extent that the Tribunal has entertained the Appeal of the Revenue with regard to the claim for provision for Rs.287.89 crores. The learned counsel submits that the claim of the Assessee of the bad debts of Rs.287.89 crores was negated by the Commissioner (Appeals). There was no reason for the Revenue to file Appeal before the Tribunal. The Tribunal could not have passed any further order on that.

2 Mr.Suresh Kumar, the learned counsel for the Respondent on going through Orders of the Commissioner and the Tribunal accepts that the Commissioner had negated the claim of the Assessee with regard to bad debts of Rs.287.89 crores. On going through the Judgment of the Commissioner (Appeals), Mr.Suresh Kumar, the learned counsel for the Respondent could not substantiate as to how the Appeal was tenable before the Tribunal against the Order of Commissioner (Appeals) on the said count.

3 It would appear that the present Appeal is restricted to the claim with regard to Rs.287.89 corers. The said claim was negated by the Commissioner (Appeals) under its Judgment and Order dated 26/03/2012.

4 For the claim of the present appellant negated to the extent by the Commissioner (Appeals), the Revenue could not have filed an Appeal against the said claim which was negated by the Commissioner against the Assessee and the Tribunal could not have further dilated on the aspect.

5 In light of above, the Appeal to the extent of paragraph 9 of the impugned Order of the Tribunal cannot subsist and the same stands set aside.

6 Paragraph 9 of the impugned order stands quashed and set aside to that extent. Appeal accordingly disposed of. No costs.

(A.M.BADAR J.) (S.V.GANGAPURWALA J.)