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

INCOME TAX APPEAL NO. 1825 OF 2014

The Commissioner of Income Tax-9 .. Appellant
v/s.
Rockline Developers Pvt. Ltd. .. Respondent

INCOME TAX APPEAL NO. 1241 OF 2014

M/s. Rockline Developers Pvt. Ltd. .. Appellant
v/s.
Income Tax Officer 9(3)(4) .. Respondent

Mr. Arvind Pinto for the appellant in ITXA 1825/14 and for the respondent in ITXA 1241/14.
Ms. Aasifa Khan for the respondent in ITXA 1825/14 and for the appellant in ITXA 1241/14.

CORAM : S.V. GANGAPURWALA &
G.S. KULKARNI, J.J.
DATED : 14th JUNE, 2017

P.C.

1. We have heard learned Counsel for the respective parties.

2. The Revenue has framed the following substantial question of law :-

(i) Whether on the facts and in the circumstances of the case and in law, the Tribunal was correct in its interpretation that for the relevant assessment year namely 2010-11, interest u/s 234B and 234C was not chargeable since the law

prevailing was that of CIT Vs. Kwality Biscuits Ltd. (2006) 284 ITR 434 (SC) without appreciating the fact that the law pertaining to the chargeability of interest in MAT cases changed from 07.01.2011, in view of the decision in JCIT Vs. Rolta (2011) 330 ITR 470(SC).

2. The assessee has framed the following substantial questions of law :-

(i) Whether on the facts and in the circumstances of the case and in law, the Tribunal ought to have considered the legal implication of insertion of sub-section (4) in section 115JA and Sub-section (5) of 115JB, which legally permit application of all other provisions of the Act contained in sub-section (1) and (2) thereof?

(ii) Whether on the facts and in the circumstances of the case and in law, the Tribunal is correct in not deciding the implication of insertion of sub-section (5) to section 115JB?

(iii) Whether what is specifically exempt u/s 80IB(10) could be taxed u/s 115JB?

3. So far as issue with regard to non-consideration of the submission of the assessee under Sections 115JB and 80-IB(10) is concerned, the Tribunal has not dealt with the said issue at all.

4. The appeal is filed by the assessee in respect of the non-consideration of the said issue raised i.e. deduction under Section 80IB(10) of the Act. The Revenue has filed the appeal in respect of an issue dealt by the Tribunal under Section 234(B) and 234(C) of the Income Tax Act.

4. The matter will have to be remitted to the Tribunal with regard to non-consideration of the case of the assessee with regard to deduction under Section 80IB(10) of the Act. The learned Counsel for the assessee concedes that when the matter is being remitted, the Tribunal may also reconsider the issue about the interest u/s 234(B) and 234(C) afresh on its own merits in accordance with law.

5. The learned Counsel for the Revenue does not seriously dispute that the matter is required to be remitted for reconsideration of the issue of interest u/s 234(B) and 234(C) of the Act and also about deduction u/s 80IB(10) of the Act.

6. The impugned order dated 21.02.2014 passed by the Tribunal is quashed and set aside. The Tribunal shall reconsider the case put

forth by the assessee and the Revenue on all the issues afresh and on its own merits in accordance with law, expeditiously.

(G.S. KULKARNI, J.) **(S.V. GANGAPURWALA, J.)**