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

INCOME TAX APPEAL NO. 1539 OF 2014

The Commissioner of Income Tax-8, Mumbai ... Appellant

V/s.

M/s. Benhoor Regency Estate Pvt. Ltd., Mumbai ... Respondent

Mr. Arvind Pinto for the Appellant.

CORAM : S.C.DHARMADHIKARI &
SMT. VIBHA KANKANWADI, JJ.
DATE : 18th AUGUST, 2017

P.C.:

. After having heard Mr. Pinto, appearing for the Appellant and perusing the order of the Tribunal impugned in this appeal, we find that no substantial question of law arises from the same.

2 The Tribunal has considered the matter from two angles. It has firstly, faulted the exercise of power under Section 263 of Income Tax Act by the Learned Commissioner of Income Tax and secondly, the Assessing Officer while giving effect to that order of the Commissioner, granted no opportunity to the Assessee, nor discussed the conditions laid down under Section 80I(10) of the Income Tax Act under which the deduction was claimed by the assessee. We find

that when such exercise undertaken by the Tribunal, and it faults the revenue in invoking the powers under Section 263 of the Income Tax Act, essentially in a factual backdrop and peculiar to the assessee's case, we do not think that the questions as proposed arise from the factual exercise. We do not think that the understanding of the Tribunal of the provisions of Section 263 of the Income Tax Act can be termed as faulty or erroneous, particularly, in the factual backdrop. Once the facts were peculiar and there was no scope for exercising revisional powers under Section 263 of the Income Tax Act, then, the Tribunal was right in stepping in. Such an order of the Tribunal does not raise any substantial question of law. The appeal is devoid of any merits and the same is dismissed.

(SMT. VIBHA KANKANWADI, J.) **(S.C.DHARMADHIKARI, J.)**