IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.1576 OF 2014

HINDUJA VENTURES LIMTED)...APPELLANT

V/s.

THE DY.COMMISSIONER OF INCOME TAX)
RANGE 8(2))...RESPONDENT

Mr.Kamal Sawhney a/w. Mr.Abhishek Tilak, Advocate for the Appellant.

Mr.Arvind Pinto, Advocate for the Respondent.

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

DATE : 26th JULY 2017

P.C. :

1 Leave to amend the prayer clause. This appeal pertains to Assessment Year 2004-2005.

2 The Assessing Officer reopened the assessment on the ground that the assessee was not entitled for deduction under Section 10A of the Act. The reopening was within the period of four years. The appeal filed by the assessee before the

Commissioner is dismissed. Thereafter, the appeal filed before the Tribunal is also dismissed. The Tribunal, on the ground that reassessment is within a period of four years, did not set aside the order of reassessment but had restored the issue back to the file of the Assessing Officer and directed him to strictly comply with the directions given by the Tribunal on the said issue and to examine whether Unit II and Unit III were set up by the assessee as independent units or not.

3 Today, vide our judgment dated 26th July 2017, we have dismissed the appeal of the Revenue for the assessment year 2005-2006 holding that Unit II and Unit III were independent units and were entitled for deduction under Section 10A of the Act.

4 The appellant herein has framed following substantial question of law:

> "Whether on the facts and in the circumstances of the case and in law, the Tribunal erred in upholding the validity of the reopening of the assessment u/s. 148 and the consequent order of reassessment passed u/s. 147 of the Act without appreciating that benefit u/s.10A in respect of Unit II and Unit III could neither be denied during assessment or reassessment proceedings for

> subsequent years when the same had been allowed in the first year of operation of the units?”

5 As we have already held in appeal filed by the Revenue bearing No.63 of 2016 for the assessment year 2005-2006 that Unit II and Unit III are entitled for benefit under Section10A of the Act, for the reasons recorded in the said judgment, the substantial question of law, as framed, will have to be answered in favour of the assessee and the ground for reopening itself be set at naught.

6 In light of the above, the appeal is allowed.

7 The judgment of the Assessing Officer and Commissioner of Income Tax (Appeals) and the Tribunal are quashed and set aside and the reopening proceedings stand quashed and set aside.

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