0IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 47 OF 2015

Commissioner of Income Tax-I, Thane .. Appellant
v/s.
M/s. Cosmos Realtors .. Respondent

INCOME TAX APPEAL NO. 33 OF 2015

Commissioner of Income Tax-I, Thane .. Appellant
v/s.
M/s. Cosmos Estate .. Respondent

INCOME TAX APPEAL NO. 12 OF 2015

Commissioner of Income Tax-I, Thane .. Appellant
v/s.
M/s. Cosmos Properties .. Respondent

Mr. Ashok Kotangle a/w Ms. Padma Divakar for the appellant
Mr. Sameer Dalal i/b Mr. Sudhakar Lakhani for the respondent

CORAM : S.V. GANGAPURWALA &
G.S. KULKARNI, J.J.

DATED : 8th JUNE, 2017

P.C.

1. The Revenue has filed the present appeals against the common judgment passed by the Tribunal for the Assessment Year 2006-07.

2. The following questions are framed by the appellant :-

(1) Whether on the facts and circumstances of the case and in law, the Tribunal was justified in allowing deduction u/s 80IB(10) of the Income-Tax Act, 1961 without appreciating the fact that the construction of the project was completed beyond the due date?

(2) Whether on the facts and circumstances of the case and in law, the Tribunal was justified in allowing deduction u/s 80IB(10) of the Act even though the assessee had violated the provisions of section 80IB(10) clause (c) of the Income-Tax Act, 1961?

(3) Whether on the facts and circumstances of the case and in law, the Tribunal was justified in allowing deduction u/s 80IB(10) of the Act even though the assessee had violated the provisions of section 80IB(10) clause (d) of the Income-Tax Act, 1961?

(4) Whether on the facts and circumstances of the case and

in law, the Tribunal was justified in confirming the decision of the Ld. CIT(A), who had allowed deduction of purchases which had been found to be non genuine ?

3. In Income Tax Appeal No.47 of 2015, four questions are framed and in Income Tax Appeal Nos.33 of 2015 and 12 of 2015, three questions are framed.

4. After hearing the learned Counsel for the appellant and the respondent, it is conceded that the question nos. (2) and (4) in Income Tax Appeal No.47 of 2015 do not arise and in Income Tax Appeal Nos. 33 of 2015 and 12 of 2015, the question no.(2) does not arise. It is also further conceded by the learned Counsel for the appellant that as far as question no.(1) is concerned, the delay is not on account of the assessee and as such, the said issue is covered by the judgment of this Court in the case of ***Hindustan Samuha Awas Ltd., reported in (2015) 377 ITR 150***. So also, issue no.(3) is covered by the decision of the Apex Court in case of ***Commissioner of Income Tax Vs. Sarkar Builders, reported in (2015) 376 ITR 392***. It is further conceded that question no.(2) does not arise in the present matter.

5. In the light of the above, no substantial question of law arises. These appeals stand dismissed. No costs.

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