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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.1501 OF 2014

The Commissioner of Income Tax-II ..Appellant
Versus
Jaysingpur Udgaon Sahakari Bank Limited ..Respondent

....

Mr. N. N. Singh for the Appellant.
Mr. Atul Jasani for the Respondent.

....

CORAM: M. S. SANKLECHA &
A. K. MENON, JJ.

DATE : 28th FEBRUARY, 2017

P.C.

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 25th February, 2014 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 2009-10.

2. This appeal raises the following question of law for our consideration :-

> *"(i) Whether on the facts and in the circumstances of the case and in law, the Tribunal is in applying the decision of the Supreme Court in the case of Catholic Syrian Bank Ltd. v/s. CIT 343 ITR 270 holding that clause (via) and (vii) of Section 36(1) are independent of each other, to the present case wherein no such issue is involved?"*

3. The impugned order of the Tribunal allowed the respondent-assessee's appeal by following its order dated 5th August, 2013 in respect of the same respondent-assessee on the same issue for Assessment Years 2007-08 and 208-09. This was by restoring the issue to the Assessing Officer to consider a fresh the issue of applicability of the decision of the Apex Court in ***Catholic Syrian Bank Ltd. v/s. CIT 343 ITR 270.***

4. The Revenue being aggrieved by the order dated 5th August, 2013 passed by the Tribunal in respect of the same respondent-assessee for the Assessment Years 2007-08 and 2008-09 had filed Income Tax Appeal No.881 of 2014 and 870 of 2014. The same was dismissed by an order dated 15th October, 2016 on the ground that no substantial question of law arises as the issue has been merely restored to the Assessing Officer to pass a fresh order after considering the applicability of the decision of the Apex Court in Catholic Syrian Bank Ltd. (supra).

5. In the above view, the present appeal on identical facts situation also does not give rise to any substantial question of law. Thus not entertained.

6. Accordingly appeal is dismissed. No order as to costs.

(A. K. MENON, J.) **(M. S. SANKLECHA, J.)**