IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.214 OF 2015

THE COMMISSIONER OF INCOME TAX-I)
PUNE)...APPELLANT

V/s.

KAT CONTROLS PVT. LTD.)...RESPONDENT

Mr.Tejveer Singh, Advocate for the Appellant.

Mr.Rohan Deshpande i/b. Mihir Naniwadekar, Advocate for the Respondent.

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

DATE : 31st JULY 2017

<u>P.C.</u> :

1 The Tribunal upheld the order of the Commissioner (Appeals) treating the income from sale of shares as capital gains. The Assessing Officer held the sale of shares as business income.

2 Mr.Tejveer Singh, the learned counsel for the appellant submits that the assessee sold its shares to the Joint Venture

Company. Though the shares were sold after ten years, but the assessee was a minority shareholder. Having sold the shares, the same would partake the character of business income. According to the learned counsel, the Assessing Officer on considering all the facts on record, has rightly come to the conclusion that the income is a business income. The Commissioner (Appeals) and the Tribunal erroneously appreciated the facts.

3 The learned counsel for the respondent supports the order and submits that the Commissioner (Appeals) and the Tribunal have rightly come to the conclusion that the sale of shares after holding it for ten years, is a long term capital gain.

4 We have considered the submissions. The factual matrix is not disputed. The Commissioner (Appeals) and the Tribunal on appreciation of facts have concurrently arrived at the conclusion that transaction of sale of shares by respondent assessee tantamounts to a long time capital gain. The Commissioner (Appeals) as well as the Tribunal have considered

the admitted facts on record and the manner of disposition of shares, the circumstances of the disposition of the shares and have arrived at concurrent finding of fact.

5 In view of the above, the finding is not perverse. No substantial question of law arises. The appeal, as such, is dismissed. No costs.

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