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

INCOME TAX APPEAL NO. 179 OF 2014

Oriental Aromatics Ltd.	}	**Appellant**
versus		
Additional Commissioner of Income Tax and Anr.	}	**Respondents**

Mr. K. Gopal with Mr. Jitendra Singh and
Ms. Neha Paranjape for the appellant.

Mr. Arvind Pinto for the respondents.

CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.
DATED :- FEBRUARY 24, 2017

P.C. :-

1. The order passed by the Income Tax Appellate Tribunal dated 23rd August, 2013, according to Mr. Gopal appearing for the assessee, raises two substantial questions of law and formulated at page 11 of the paper book.

2. With the assistance of Mr. Gopal, we have perused the order under challenge. After noting the rival contentions, the tribunal has found that the matter necessitates a fresh consideration. That is why the tribunal set aside the order under challenge before it. It restored the matter to the file of the first appellate authority for consideration afresh of the assessee's claims. The tribunal's order, to the extent relevant, reads as under:-

> ".....
>
> Under the circumstances, we, therefore, only consider it fit and proper that the matter is restored back to the file of the first appellate authority for a consideration afresh of the assessee's claims. The onus to prove the same though would only be on the assessee. The FAA shall decide the same in accordance with law, issuing definite findings of fact after hearing both sides. We decide accordingly."

3. Once the tenor of the tribunal's order is understood in the backdrop of all preceding observations and conclusions, then, it is evident that the appellate authority will apply his mind afresh to the claims of the assessee. The assessee, then, can raise all contentions including based on the questions proposed in the memo of appeal. The first appellate authority is bound to deliver a fresh order. Therefore, the apprehension as expressed before us cannot be entertained. The appeal does not involve any substantial question of law. It is dismissed. No costs.

(B.P.COLABAWALLA, J.) **(S.C.DHARMADHIKARI, J.)**