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

INCOME TAX APPEAL NO. 159 OF 2015

The Commissioner of Income Tax-3 … Appellant
Versus
M/s. Omega Investments & Properties Ltd. … Respondent

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Mr. Ashok Kotangle a/w Mr. Arun D. Nagrajan and Mr. Pradip Badgude i/b Mrs. Padma Divekar, for the Appellant.
Mr. Vishnu S. Hadade, for the Respondent.

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

DATE : 25th JULY, 2017

P. C. :

1. The present appeal pertains to assessment year 2009-2010.

2. Mr. Kotangle, learned counsel for the appellant submits that assessee was not entitled for deduction under Section 80IB(10) of the Income Tax Act, 1961 (for short 'the Act') in respect of redevelopment project, the same was not eligible for deduction in view of the board instructions under Section 119 of the Act. According to the learned counsel, the Tribunal was not justified in overwriting the notification of the board under Section 119 of the Act.

3. Learned counsel for the respondent supports the order.

4. The Commissioner [Appeals] in his judgment has specifically observed that the project of the assessee is approved as slum rehabilitation project by slum rehabilitation authority of the State and the same has also been notified. The assessee has submitted the project and the plan dated 28/04/2004 and the same was approved by the Rehabilitation Authority on 04/06/2004, the same is filed on record. The Tribunal has also considered the said aspect, so also proviso to Section 80IB(10) of the Act and has correctly passed the order. The judgment of the Tribunal cannot be faulted with.

5. In view of the above facts and circumstances, no interference is called for. The Appeal is dismissed. No costs.

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