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

INCOME TAX APPEAL NO. 663 OF 2015
WITH
INCOME TAX APPEAL NOS. 664 OF 2015, 782 OF 2015,
530 OF 2016 AND 557 OF 2016

The Commissioner of Income Tax-4 .. Appellant
v/s.
M/s. Indo Euro Indchem Ltd.
Formerly known as Rinku Polchem Ltd. .. Respondent

Mr. Suresh Kumar a/w Ms. Samkisha Kanani for the appellant
None for the respondent

CORAM : S.V. GANGAPURWALA &
A.M. BADAR, J.J.
DATED : 1st AUGUST, 2017

P.C.

1. These appeals pertain to Assessment Years 2008-09, 2009-10, 2005-06, 2006-07 and 2007-08.

2. The following ground is raised in the present appeal.

(i) Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in law in allowing unabsorbed depreciation, relating to A.Y. 1997-98 against the income of A.Y. 2006-07, which is contrary to the decision of Special Bench ITAT Mumbai in the case of M/s. Times

Guarantee Ltd. against which the assessee is in appeal before the jurisdictional High Court?

3. We have heard the learned Counsel for the respective parties. It appears that the ground as raised in the present appeal is covered in a case of ***Commissioner of Income Tax-1 Vs. M/s. Hindustan Unilever Ltd. (Income Tax Appeal No.1873 of 2013)***, decided on 26th July, 2016, wherein this Court has followed the decision of Gujarat High Court in a case of General Motors (India) Ltd. Vs. DCIT, reported in 354 ITR 244, wherein it is held that unabsorbed depreciation for the A.Y. 1997-98 upto A.Y. 2001-02 could be allowed to be set off, if it was still unabsorbed on 1st April, 2001. Even the CBDT Circular No.14 of 2001 dated 22nd November, 2001 was also considered.

4. In view of the judgment of the jurisdictional High Court on the said issue, the question as framed does not give rise to any substantial question of law. As such, the Appeals are dismissed. No costs.

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