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

INCOME TAX APPEAL NO. 586 OF 2007

Blue Cross Laboratories Ltd. .. Appellant

v/s.

Dy. Commissioner of Income Tax,
Range -3(1), Mumbai ..Respondent

Mr. Atul Jasani for the appellant
Mr. Sham Walve for the respondent

CORAM : M.S. SANKLECHA &
SANDEEP K. SHINDE, J.J.

DATED : 11th JULY, 2018.

P.C.

1. This appeal under Section 260A of the Income Tax Act, 1961 (the Act) was admitted on 22nd September, 2008 on the following substantial questions of law :-

(a) Whether the Tribunal erred in upholding the allowance of depreciation of Rs.3,18,37,902 as a mandatory deduction while computing the income under the head profits and gains of business or profession and in computing the profits eligible for deduction under Section 80-IA of the Act?

(b) Whether the Tribunal ought to have held that the appeal filed by the respondent no.1 was not maintainable in view of Circular F

No. 279/126/98-IT dated March 27, 2000 issued by the CBDT which was binding on him?

2. It is an agreed position between the parties that question no.(a) stands concluded against the appellant assessee and in favour of the respondent Revenue by the decision of the Apex Court in ***Plastiblend India Ltd. Vs. Addl. Commissioner of Income Tax, 398 ITR 568***.

3. Mr. Jasani, learned Counsel appearing for the appellant very fairly states that in view of the answer to question no.(a) by the decision of the Apex Court in *Plastiblend India Ltd.* (supra), the substantial question of law at question no.(b) would not survive. Thus, not pressed.

4. In view of the above, appeal is dismissed. No order as to costs.

(SANDEEP K. SHINDE J.) **(M.S. SANKLECHA, J.)**