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

INCOME TAX APPEAL NO. 764 OF 2015

The Principal Commissioner of Income Tax 8 … Appellant
Versus
M/s. Reliance Petro Marketing Ltd. …Respondent

Mr. S.V. Bharucha, for the Appellant.
Mr. Madhur Agrawal, with Mr. P.C. Tripathi, i/b Raj Darak, for the Respondent.

CORAM: M.S.SANKLECHA, &
MR. RIYAZ I. CHAGLA, JJ.
DATED: 11TH JANUARY 2018

PC:-

1. This Appeal under Section 260A of the Income Tax Act, 1961 (Act) challenges the order dated 27th August 2014 passed by the Income Tax Appellate Tribunal (Tribunal). This Appeal relates to Assessment Year 2008-09.

2. Ms. Bharucha, the learned counsel appearing for the Appellant – Revenue urges only the following reframed question by her for our consideration:-

> *(i) "Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in holding that the amount raised by the assessee by way of loan and interest expenditure pertaining thereto is for the purpose of business of the assessee being in nature of commercial expediency in view of*

the decision of Hon'ble Supreme Court in case of S.A. Builders Ltd. whereas the factual matrix of the case makes it very clear that the entire amount raised by way of convertible debenture was advanced by the assessee as a loan to the sister-concern and the assessee has failed to prove that the loan was raised for the purpose of business of the assessee"?

3. We find that the impugned order of the Tribunal dated 27th August 2014 allowed the Respondent – Assessee's Appeal by following its order dated 6th September 2013 in the case of same Respondent for Assessment Year 2007-08 on an identical issue.

4. Ms. Bharucha, the learned counsel for the Revenue fairly points out that the Revenue being aggrieved by the above order dated 6th September 2013 of the Tribunal in respect of AY 2007-08 had preferred an Appeal in this Court being Income Tax Appeal No. 390 of 2014 (***Commissioner of Income Tax – 7 Mumbai Vs. M/s. Reliance Petromarketing Ltd).*** Ms. Bharucha tenders a copy of the order dated 23rd August 2016 of this Court dismissing the ***Income Tax Appeal No. 390 of 2014 (Supra)*** as not giving rise to any substantial questions of law.

5. For the reasons indicated in our order dated 23rd August 2016 dismissing the Revenue's Appeal from the Assessment Year 2007-08 being Income Tax Appeal No.390 of 2014, the question of

law is proposed herein also does not give rise to any substantial questions of law. Thus not entertained.

6. Accordingly the Appeal is dismissed. No order as to costs.

(RIYAZ I. CHAGLA J.) **(M.S.SANKLECHA, J.)**