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

INCOME TAX APPEAL NO. 741 OF 2016
WITH
INCOME TAX APPEAL NO. 755 OF 2016

The Commissioner of Income Tax,(Exemptions) .. Appellant
Mumbai

v/s.

M/s. Dawat E. Hadiyah .. Respondent

Mr. Ashok Kotangle for the appellant
Mr. Firoze Andhyarujina, Senior Counsel a/w Mr. Maneck Andhyarujina I/b Sameer Dalal for the respondent

CORAM : AKIL KURESHI &
M.S. SANKLECHA, J.J.

DATED : 3rd DECEMBER, 2018.

P.C.

1. These Appeals under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the common order dated 30th July, 2015 passed by the Income Tax Appellate Tribunal (the Tribunal). The common impugned order relates to Assessment Years 2010-11 and 2011-12.

2. The Revenue has urged the following re-framed questions of law in both the appeals for our consideration :-

(i) Whether on the facts and in the circumstances of the case

and in law, the Tribunal was right in allowing the appeal of the assessee on account of disallowing depreciation on fixed assets for A.Y. 2010-11 and 2011-12 ?

(ii) Whether on the facts and in the circumstances of the case and in law, the Tribunal erred in allowing the carry forward of deficit for A.Y. 2010-11 and 2011-12 and allowing set off against the income of the subsequent years ?

3. Mr. Kotangle, learned Counsel appearing for the Revenue very fairly states that the issues raised herein stands concluded against the Revenue and in favour of the respondent assessee by the decision of the Apex Court in ***Commissioner of Income Tax-III, Pune Vs. Rajasthan & Gujarati Charitable Foundation Poona, (2018) 89 Taxmann.com 127.*** Thus, the questions as proposed do not give rise to any substantial questions of law. Thus, not entertained.

4. Both the appeals are dismissed. No order as to costs.

(M.S. SANKLECHA, J.) **(AKIL KURESHI, J.)**