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

INCOME TAX APPEAL NO. 687 OF 2016
WITH
INCOME TAX APPEAL NO. 703 OF 2016

Commissioner of Income Tax (Exemptions) .. Appellant

v/s.

Shri. Sadguru Seva Trust .. Respondent

Mr. N.C. Mohanty a/w Ms. Padma Divakar for the appellant
Ms. A. Vissanji a/w Mr. S.J. Mehta for the respondent

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

DATED : 27th NOVEMBER, 2018.

P.C.

1. These two appeals under Section 260A of the Income Tax Act, 1961 (the Act) challenges the order dated 31st July, 2015 passed by the Income Tax Appellate Tribunal (the Tribunal). These two appeals relate to Assessment Years 2009-10 and 2010-11.

2. The Revenue has urged the following identical 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 upholding the order of the

CIT(A) allowing the claim of depreciation by relying on the decision in the case of CIT Vs. Institute of Banking Personnel Services reported at 264 ITR 110 (Bom) ?

(ii) Whether on the facts and in the circumstances of the case and in law, the Tribunal was right in upholding the decision of the CIT(A) to allow carry forward of deficit on account of excess expenditure to be set off against the income of the subsequent years by invoking Section 11 of the Act?

3. <u>Regarding question (i) :-</u>

(a) Mr. Mohanty, learned Counsel appearing for the Revenue very fairly states that this question stands concluded against the Revenue and in favour of the respondent assessee by the decision of the Apex Court in ***CIT Vs. Rajasthan and Gujarati Charitable Foundation, (2018) 402 ITR 441***.

(b) In the above view, this question does not give rise to any substantial question of law. Thus, not entertained.

4. <u>Regarding question no.(ii) :-</u>

(a) Mr. Mohanty very fairly states that this issue also stands concluded against the Revenue and in favour of the respondent assessee by the decision of the Delhi High Court in ***CIT Vs. Subros Educational***

Society (2015) SCC Online Del.14525. Being aggrieved, the Revenue carried the issue in appeal to the Apex Court. By order dated 16th April, 2018, the Apex Court dismissed the Revenue's appeal reported as ***CIT Vs. Subros Educational Society (2018) 7 SCC 548***.

(b) In the above view, this question does not give rise to any substantial questions of law. Thus, not entertained.

5. In the above view, both the appeals are dismissed. No order as to costs.

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