IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 178 OF 2006

Radha Madhav Industries ....Appellant
V/s.
Income-Tax Officer, ...Respondent

* * * * *

Mr. Atul Jasani, Advocate for the appellant.

Mr. A.R. Malhotra, Advocate for the respondent.

CORAM :- M.S. SANKLECHA, &

SANDEEP K. SHINDE, JJ.

DATE :- 21ST JUNE, 2018.

P.C. :-

1. This Appeal under Section 260A was admitted on 10th November, 2008 on the following substantial questions of law :-

" i. Whether on the facts and in the circumstances of the case the Tribunal was justified in holding that for the purpose of computing the deduction that was allowable to the Appellant under Section 80IB, the

profits would have to be computed by deducting therefrom the depreciation that was allowable in terms of Section 32 even though the Appellant had not preferred a claim for depreciation?

ii. Whether the Tribunal's conclusion that the Appellant had no option as to whether it could or could not claim depreciation when computing profits that were eligible for a deduction under Section 80IB was justified in law?

iii. Whether the Tribunal was justified in its conclusion that the ratio of the decision of the Hon'ble Supreme Court in CIT Vs. Mahendra Mills Ltd. 243 ITR 56 would have no application for assessment years commencing after the first day of April, 1988 or where a claim for deduction under Chapter VI-A was made?

2. The Learned Counsel for the parties have agreed that all the three questions raised herein stand concluded by the decision of the Supreme Court in

Plastiblends India Ltd v. Additional Commissioner of Income-Tax and Another, [2017] 398 ITR 568 (SC). In the above view, all the three questions are answered in the affirmative i.e. in favour of the respondent, Revenue and against the appellant-Assessee. Appeal dismissed in above terms.

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