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

INCOME TAX APPEAL NO. 621 OF 2002

The Commissioner of Income Tax,
City-4, Bombay .. Appellant

v/s.
Jaibharat Fabrics Mills Ltd. ..Respondent

Mr. Suresh Kumar for the appellant
None for the respondent

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

DATED : 28th JUNE, 2018.

P.C.

1. None appears for the respondent inspite of service.

2. This appeal under Section 260A of the Income Tax Act, 1961 (the Act) was admitted on 30th August, 2005 on the following question of law :-

> *"Whether on the facts and circumstances of the case and in law, the Tribunal was justified in holding that while computing the deduction u/s 80IA the depreciation, which was not claimed by the assessee, should not be reduced out of income?"*

3. This appeal relates to Assessment Year 1996-97.

4. Mr. Suresh Kumar, learned Counsel for the Revenue points out

that the issue now stands concluded in favour of the Revenue by the decision of the Apex Court in ***Plastiblends India Ltd. Vs. Addl. Commissioner of Income Tax, 86 taxmann.com 137***. Thus, there has to be deduction of depreciation while computing incentive deduction under Section 80IA of the Act. Accordingly, the substantial question of law is answered in the negative i.e. in favour of the appellant Revenue and against the respondent assessee.

5. The appeal is allowed in the above terms.

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