IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 1154 OF 2015

The Principal Commissioner
of Income Tax-3 ....Appellant

V/s.

M/s. Bajaj Capital Ventures
Pvt. Ltd. ....Respondent

* * * * *

Mr. Suresh Kumar, Advocate for the appellant.

Mr. Niraj Sheth i/by. Mr. Atul K. Jasani, Advocate for the respondent.

CORAM :- M.S. SANKLECHA, &

SANDEEP K. SHINDE, JJ.

DATE :- 12TH MARCH, 2018.

P.C. :-

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act), challenges the order dated 24th

November, 2014 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order dated 24th November, 2014 is in respect of Assessment Year 2009-10.

2. Revenue urges the following question of law, for our consideration:

> *"(A). Whether on the facts and in the circumstance of the case and in law, the Income Tax Appellate Tribunal was justified in treating interest earned on money lending operation of Rs.3,55,37,740/- under the head "Profits & Gain from Business & Profession" instead of "Income from Other Sources" as held by the Assessing Officer without appreciating that the assessee is not a Non-Banking Finance Company (NBFC) and hence giving loans and advances to other parties cannot be considered as business activity ?"*

3. The impugned order of the Tribunal dated 24th November, 2014 dismissed the Revenue's Appeal before it for Assessment Year 2009-10. This by following the order dated 2nd August, 2013 of its Co-ordinate Bench in respect of Assessment Year 2008-09 in case of the same

Respondent.

4. Mr. Suresh Kumar, Learned Counsel appearing for the Revenue very fairly points out that being aggrieved by the order of the Tribunal in respect of Assessment Year 2008-09, the Revenue had preferred an Appeal to this Court being Income Tax Appeal No. 1048 of 2014. This Court by an order dated 19th October, 2016 dismissed the Revenue's Appeal being Income Tax Appeal No. 1048 of 2014 in respect of Assessment Year 2008-09.

5. There are no distinguishing features shown to us in the present Appeal which would warrant taking a different view from that taken by us in our order dated 19th October, 2016 in Income Tax appeal No. 1048 of 2014 (supra).

6. In the above view, for the reasons indicated in our order dated 19th October, 2016 in Income Tax Appeal No. 1048 of 2014 (supra), the question as

proposed does not give rise to any substantial question of law. Thus, not entertained. The Appeal is dismissed.

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