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

INCOME TAX APPEAL NO. 313 OF 2016

The Pr. Commissioner of Income Tax-26 .. Appellant
v/s.
Shri. Prakash P. D'Souza ..Respondent

Ms. S.V. Bharucha for the appellant
Mr. Sameer Dalal for the respondent

CORAM : M.S. SANKLECHA &
SANDEEP K. SHINDE, J.J.
DATED : 14th AUGUST, 2018.

P.C.

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 15th December, 2014 passed by the Income Tax Appellate Tribunal (the Tribunal). This appeal relates to Assessment Year 2008-09.

2. The Revenue has urged only the following substantial question of law for our consideration :-

(i) Whether on the facts and circumstances of the case and in law, the Tribunal was right in rejecting the decision of the CIT(A) concluding that charging of Rs.10.50 crores u/s 45 of the Act by the A.O. was justified?

3. Ms. Bharucha, learned Counsel appearing for the appellant Revenue very fairly states that the impugned order of the Tribunal

allowed the respondent assessee's appeal by following its order in the case of another partner (namely Mr. Ravishankar R. Singh) in a partnership firm in which the respondent is partner. The Revenue being aggrieved by the order of the Tribunal in the case of Mr. Ravishankar R. Singh passed on 4th April, 2012 had preferred on appeal to this Court being Income Tax Appeal No.207 of 2015 (Commissioner of Income Tax Vs. Ravishankar R. Singh). The above appeal was dismissed on 31st July, 2017 as not giving rise to any substantial question of law. Ms. Bharucha, learned Counsel appearing for the Revenue states that the issue arising herein stands concluded by the aforesaid decision of this Court in Ravishankar R. Singh (supra).

4. In the above view, for the reasons indicated in our order dated 31st July, 2017 in the case of Ravishankar R. Singh (supra), the question as proposed does not give rise to any substantial question of law. Thus, not entertained.

5. The appeal is dismissed. No order as to costs.

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