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

INCOME TAX APPEAL NO. 1301 OF 2015

Pr. Commissioner of Income
Tax, Central-2 ....Appellant
V/s.
Shri. Ashwin S. Mehta ....Respondent

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Mr. Ashok Kotangle i/by. Ms. Padma Divakar, Advocate for the appellant.

Mr. Pankaj Toprani, Advocate for the respondent.

CORAM :- M.S. SANKLECHA, &
SANDEEP K. SHINDE, JJ.

DATE :- 11TH APRIL, 2018.

P.C. :-

1. This Appeal under Section 260A of the Income Tax Act, 1961 (the Act) challenges the order dated 10th November, 2014 of the Income Tax Appellate Tribunal (the Tribunal) for Assessment Year 1992-93.

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

> *"Whether on the facts and in the circumstances of the case and in law was the Tribunal justified in restoring the matter to the Assessing Officer for de-novo assessment without giving any finding on whether the principles of natural justice have been violated ?"*

3. Mr. Toprani, the Learned Counsel for the respondent submits that after the order passed by the Tribunal, remitting the matter to the Assessing Officer, the Assessing Officer has done a re-assessment and against the said decision, the appeal was also filed by the assessee before the Commissioner (Appeals). The Commissioner (Appeals) has decided the said Appeal and the further subsequent appeal is filed before the Tribunal.

4. Considering the fact that the impugned order had already taken the effect and the fresh assessment order is passed by the Assessing Officer and the appeal is also filed and decided and further subsequent appeal before the Tribunal is pending, we are not inclined to consider the present matter.

5. In the light of the above, the Appeal is dismissed. No order as to costs.

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