IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INCOME TAX APPEAL NO. 627 OF 2003

M.R. Bhansali & Co. .....Appellant
V/s.
The Dy. Commissioner of
Income Tax and anr. .....Respondents

* * * * *

Ms. Sneha Phene alongwith Ms. Priyanka Pal i/by. Little & Co., Advocate for the appellant.

CORAM :- M.S. SANKLECHA, &

SANDEEP K. SHINDE, JJ.

DATE :- 6TH JULY, 2018.

P.C. :-

1. None appears for the respondent despite service. The appellant has filed Affidavit dated 14th July, 2018 of Mr. Dhuri, evidencing the fact that the respondents were served with a copy of this Appeal on 12th August, 2018 and again on 29th August, 2008. Despite this, none appears. The affidavit of service is taken on record.

2. This Appeal under Section 260A of the Income Tax Act, 1961 (the Act) from the order dated 24th February, 2003 was admitted on 28th October, 2004 on the following substantial question of law :

> *"Whether in the facts and circumstances of the case and in law, the Tribunal was correct in directing the Assessing Officer i.e. Deputy Commissioner of Income-Tax to delete/exclude the amount of redemption fine from business profits ?"*

3. The Assessment Year relevant to this Appeal is Assessment Year 1991-92.

4. The impugned order of the Tribunal disallowed the benefit of Section 80HHC of the Income Tax Act, 1961 (the Act) by following the decision of this Court in **Commissioner of Income Tax v/s.K.K. Doshi & Co., 245 ITR page 849**. The decision of this Court in *K.K. Doshi* (supra) was reversed by the Apex Court in **K.K.Doshi and Co. v. Commissioner of Income-Tax. [2008] 297 ITR 38 (SC)**. In the above view, prior to the amendment made by the Finance (No.2) Act, 1991 with effect from 1st April, 1992, the appellant is entitled to the benefit of Section 80HHC of the Act on refund of redemption fine as being part of its business profits.

5. Accordingly, the substantial question of law is answered in the negative i.e. in favour of the appellant-Assessee and against the respondent-Revenue.

6. Appeal allowed. No order as to costs.

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