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

INCOME TAX APPEAL NO. 775 OF 2015

Commissioner of Income – Tax (Exemptions), Mumbai … Appellant

Versus

M/s. Bai Kabibai & Hansraj Morarji Charity Trust …Respondent

Mr. Ashok Kotangale, with Padma Divakar, for the Appellant.
Mr. Jitendra Jain, i/b Kanga and Company for the Respondent.

CORAM: M.S.SANKLECHA & RIYAZ I. CHAGLA, JJ.
DATED: 22ND JANUARY 2018

PC:-

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act), challenges the order dated 13th January 2015 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order dated 13th January 2015 is in respect of Assessment Year 2007-08.

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

> *(6.1) "Whether on the facts and in the circumstance of the case and in law, the Tribunal was right in allowing the appeal of the assessee on account of disallowing depreciation on Fixed Assets for A.Y. 2007-08 of Rs.40,71,130/-"?*
>
> *(6.2) " Whether on the facts and in the circumstance of the case and in law, the Tribunal was right in*

> *allowing the carry forward of deficit of Rs.93,27,167/- for A.Y. 2007-08 and allowing set off against the income of the subsequent years?"*

4. Mr. Kotangale, the learned counsel for Revenue very fairly states that both the questions framed herein stands concluded against the Revenue and in favour of the Respondent – Assessee by the decision of the Supreme Court in the case of ***Commissioner of Income Tax Vs. Rajasthan & Gujarati Charitable Foundation Poona***[1] and of this Court in ***CIT V. Institute of Banking***[2].

5. In view of the above, the question as framed do not give rise to any substantial questions of law. Thus not entertained.

6. Accordingly, **Appeal dismissed.** No order as to costs.

(RIYAZ I. CHAGLA J.) **(M.S.SANKLECHA, J.)**

1 Civil Appeal No. 7186 of 2014 decided on 13th December 2017.

2 (2003) Vol. 264 *ITR 110.*