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

INCOME TAX APPEAL NO. 803 OF 2002

M/s. Indian Gum Industries Ltd. … Appellant

V/s.

Joint Commissioner of Income Tax & Ors. … Respondents

Mr. S. Sriram a/w Mr. Mayank Thosar i/b B.V. Jhaveri for the Appellant.
Mr. Suresh Kumar for the Respondent.

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

DATED : 13th JULY, 2018

P.C. :-

1. This Appeal under Section 260A of the Income Tax Act, 1961 (the Act) challenges the order dated 27.09.2007 passed by the Income Tax Appellate Tribunal (the Tribunal).

2. This Appeal was admitted on 16.03.2009 on the following substantial questions of law:-

"*1. Whether on the facts and in the circumstances of the case, was the Tribunal right in law in taking the view that the assessee is entitled to claim deduction u/s. 80IA on the total income after excluding profits ("deduction") derived from export business of the two new industrial undertakings where 80HHC claim is allowed?*

2. Whether on the facts and in the circumstances of the case, was the

Tribunal right in law in applying the provisions of Section 80IA(9A) for assessment years 1997-98 and 1998-99?"

3. This Appeal relates to the Assessment Year 1998-1999.

4. We have today by a separate order in judgment answered both the questions in Income Tax Appeal No.802 of 2002 filed by the same appellant assessee, relating to Assessment Year 1998-99 on the two identical questions and answered them in favour of the appellant assessee and against the respondent Revenue. It is an agreed position between the parties that the facts and law are identical for Assessment Years 1997-98 and 1998-99. Therefore, for the reasons indicated in our order today in Income Tax Appeal No.802 of 2002, both the questions are answered in the negative i.e. in favour of the appellant assessee and against the respondent Revenue.

5. The appeal is allowed.

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