IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INCOME TAX APPEAL NO. 209 OF 2016

The Pr. Commissioner of Income Tax-3
Pune .. Appellant
v/s.
Shri. Vipul Krishna Ashtekar ..Respondent

Mr. Tejveer Singh for the appellant
None for the respondent

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

DATED : 18th JULY, 2018.

P.C.

1. This appeal under Section 260A of the Income Tax Act, 1961 (the Act) challenges the order dated 30th December 2014 of the Income Tax Appellate Tribunal (the Tribunal). This appeal relates to Assessment Year 1999-2000.

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

> *"Whether the Income Tax Appellate Tribunal was correct on facts and in the circumstances of the case and in law in not following the decision of the Hon'ble Supreme Court of India in case of CIT Vs. Poddar Cements (1997) 226 ITR 625 wherein it was held that capital gains will arise on the date of transfer of capital asset?"*

3. We find that the impugned order of the Tribunal had no occasion

to consider the decision of the Apex Court in Poddar Cements (supra). This for the reason that the impugned order allowed the respondent assessee's appeal on the principle of consistency and uniformity of treatment of all assessees. The impugned order of the Tribunal records the fact that the similarly placed assessees in respect of the issues arising herein were granted the benefit claimed by the respondent assessees. The impugned order of the Tribunal records that no justification was made out by the Revenue for a departure from the view taken by the Revenue in respect of the other assessees similarly placed.

4. No grievance to the above findings of the Tribunal is urged by the Revenue.

5. In the above view, the question as proposed does not give rise to any substantial question of law as it does not arise from the impugned oder. Thus, not entertained.

6. Accordingly, the appeal is dismissed. No order as to costs.

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