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

INCOME TAX APPEAL NO.802 OF 2016

The Pr. Commissioner of Income Tax-1 … Appellant

V/s.

BMC Software India Pvt. Ltd. … Respondent

Mr.Tejveer Singh for the Appellant.
Mr.Atul Jasani for the Respondent.

CORAM : AKIL KURESHI AND
M.S.SANKLECHA, JJ.
DATE : DECEMBER 10, 2018.

P.C.:-

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act), challenges the order dated 4th February, 2015 passed by the Income Tax Appellate Tribunal (the Tribunal). This Appeal relates to Assessment Year 2006-07.

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

"Whether, on the facts and circumstances of the

> case and in law the Hon'ble Tribunal is correct in holding that the assessee is eligible to claim deduction u/s 10A on enhanced profit due to statutory disallowance u/s. 40 (a)(ia)?"

3. We find that the impugned order of the Tribunal has held that disallowance made under Section 40(a)(ia) of the Act would not affect the assessee's liability to tax. This is so as even if the above amount are disallowed and added to the income the same would be exempted under Section 10A of the Act. This by following the decision of this Court in **Commissioner of Income Tax Vs. Gem Plus Jewellery India Ltd**.[1]. As the impugned order of the Tribunal has only followed the binding decision of this Court, the proposed question does not give rise to any substantial question of law. Therefore, not entertained.

4. Accordingly, appeal dismissed. No order as to costs.

(M.S.SANKLECHA,J.) **(AKIL KURESHI,J.)**

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1 (2011)330 ITR 175