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

INCOME TAX APPEAL NO. 288 OF 2016

The Commissioner of Income Tax (Exemptions) **... Appellant**

V/s.

Maharashtra Industrial Development Corporation **... Respondent**

Mr. N. C. Mohanty for the Appellant
Mr. Rohan Deshpande I/b Mihir Naniwadekar for the Respondent.

CORAM : M.S. SANKLECHA &
SANDEEP K. SHINDE, JJ.
DATE : 05th JULY, 2018

P.C.:

. This Appeal under Section 260A of the Income Tax Act, 1961 ("Act") challenges the order dated 05.03.2015 of the Income Tax Appellate Tribunal ("Tribunal").

2 This appeal relates to Assessment Year 2007-2008.

3 Mr. Mohanty, the learned Counsel for the Revenue urges the following question of law for re-consideration.

> " Whether, on the facts and in the circumstances of case and in law, the Tribunal is justified in allowing carry forward of deficit of Rs.40,45,02,295/- to be set off against

the income of the subsequent years as applicable of income under Section 11(1)(a) of the Act, without appreciating that it would tantamount to double deduction of the expenditure as application of income?"

4 We find that the impugned order dated 05.03.2015 of the Tribunal has while allowing the appeal followed the decision of this Court in the Respondent Assessee's own case in Director of Income Tax (Exemption) V/s. Maharashtra Industrial Development Corporation (MIDC) in Income Tax Appeal No. 2652 of 2011 decided on 20.03.2013 to dismiss the Revenue's Appeal for the Assessment year 2005-06. Further for the subsequent assessment year viz Assessment year 2008-09, this Court has dismissed the Revenue's Appeal on identical issue in Income Tax Appeal No. 2506 of 2013 decided on 07.06.2016.

5 In the above view, the question as proposed does not give rise to the substantial question of law. Thus not entertained.

6 Hence, Appeal dismissed. No order as to costs.

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